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APPENDIX

SUPREME COURT OF THE UNITED STATES

October Term, 1972

No. 72-1125

A. Y. ALLEE, ET AL,

Appellants

v.

FRANCISCO MEDRANO, ET AL,

Appellees

**Appeal From
The United States District Court
For The Southern District Of Texas**

Filed February 14, 1973
Probable Jurisdiction Noted May 7, 1973

APPENDIX

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Appellants

v.

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Appellees

**Appeal From
The United States District Court
For The Southern District Of Texas**

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[fol.A]
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67-B-36

TITLE OF CASE

FRANCISCO MEDRANO, KATHY BAKER,
DAVID LOPEZ, GILBERT PADILLA,
MAGDALENO DIMAS, BENJAMIN RODRIGUEZ,
AND UNITED FARM WORKERS ORGANIZING
COMMITTEE, AFL CIO,

vs.

A. Y. ALEE, JACK VAN CLEVE, JEROME PREISS,
T. H. DAWSON, DR. RENE SOLIS, RAUL PENA,
ROBERTO PENA, and JIM ROCHESTER, AND
B. S. LOPEZ

Basis of action: Suit under Rule 23, of the Federal
Rules of Civil Procedure (For preliminary. Injunction)
Jurisdiction under 42 U.S.C.A. Secs. 1983 & 1985, 28
USCA SEC.1343.

ATTORNEYS

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For Defendant: Frank R. Nye, Jr., Rio Grande City &
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DEFENDANT'S ACCOUNT RECEIVED DISBURSED
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Notice of appeal,
deft. Rochester

5.00

[fol.B]

IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO, KATHY BAKER,
DAVID LOPEZ, GILBERT PADILLA,
MAGDALENO DIMAS, BENJAMIN RODRIGUEZ,
AND UNITED FARM WORKERS ORGANIZING
COMMITTEE, AFL CIO,

Plaintiffs

VS.

CIVIL ACTION NO. _____

A. Y. Allee, JACK VAN CLEVE,
JEROME PREISS, T. H. DAWSON,
DR. RENE SOLIS, RAUL PENA,
ROBERTO PENA, and JIM ROCHESTER,
and B. S. LOPEZ,

Defendants

COMPLAINT

COME NOW the following Plaintiffs as individuals and as class representatives: Francisco Medrano, Kathy Baker, David Lopez, Glibert Padilla, Magdaleno Dimas, Benjamin Rodriguez, and United Farm Workers Organizing Committee, AFL CIO, complaining of the following defendants: S. H. Denson, A. Y. Allee, Jack Van Cleve, Jerome Preiss, T. H. Dawson, Dr. Rene Solis, Raul Pena, Roberto Pena, Jim Rochester, and B. S. Lopez, and as cause of action would show the following:

1. Plaintiff Medrano is a resident of Dallas County, Texas. Plaintiffs Baker, Lopez, Padilla, Dimas and Rodriguez are residents of Starr County, Texas. All plaintiffs are citizens of the United States. Plaintiff United Farm Workers Organizing Committee, AFL CIO is a voluntary unincorporated labor organization affiliated with the AFL CIO, hereinafter denominated the "Union." Plaintiff Padilla is an officer in that Union. Defendants Allee, Van Cleve, Preiss, Dawson and S. H. Denson are Texas Rangers, employees of the State of Texas, and residents of Dimmit County, Texas.

Defendant Solis is the Sheriff of Starr County, Texas, and resides in said County. Defendants Raul Pena and Roberto Pena are Deputy Sheriffs of Starr County, Texas, and residents of that County, and as such residents of the Southern District of Texas. Defendant B. S. Lopez is a Justice of the Peace in Starr County, Texas, Precinct No. 1.

Defendant Jim Rochester is a Special Deputy of the Starr County Sheriff's Department and a resident of Starr County, Texas, and a resident of the Southern District of Texas.

2. This action is brought by the Plaintiffs individually and as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure. The class of persons on whose behalf this action is prosecuted is all persons who—either because of their membership in said Union, or because of their sympathy and voluntary support of said Union in its labor dispute with certain employers in Starr County, Texas—have engaged in, are engaging in, and desire to continue to engage in constitutionally protected free speech and peaceful assembly,

including lawful peaceful picketing and other forms of publicity. Said group is a group of persons so numerous that joinder of all members is impracticable. There are questions of law common to the class, and the claims of the representative parties are typical of the claims of the class of persons affected by the conduct of the Defendants herein complained of. Said Plaintiffs are representatives of the class will fairly and adequately protect the interests of the class.

3. This court has jurisdiction under 42 U.S.C.A. Secs. 1983 and 1985, and 28 U.S.C.A. Section 1343, this being a claim for redress against certain persons who, acting under color of State law, have conspired to deprive Plaintiffs of their civil rights, privileges and immunities protected by the laws and the Constitution of the United States, and who, acting under color of State law, have deprived Plaintiffs of their constitutionally protected rights, privileges and immunities.

4. Since on or about June 1, 1966, and continuing to the present, the Union and various agricultural and farm workers have been engaged in various concerted activities for the purpose of protecting themselves in their personal work, personal labor, and personal service, as authorized by the laws and constitution of the United States. Since said date, and continuing to the present, officers and members of that organization and other persons sympathetic to their cause have sought, by peaceful picketing and other lawful conduct, to disseminate the facts of working conditions of such workers in Starr County, Texas, and in the Rio Grande Valley of Texas.

5. Since the beginning of such activities and continuing to the present, defendants and other members of

the Starr County Sheriff's Department and other members of the Department of Public Safety of the State of Texas, acting, in their official capacities, and under color of State statutes and other laws, have conspired among themselves in Starr County, Texas, and with employers for the purpose and with the object of depriving Plaintiffs and the class they represent of rights, privileges and immunities protected by the laws and constitution of the United States and of equal protection, privileges and immunities under the United States constitution and laws; in furtherance of which conspiracy and to the injury of the plaintiffs and members of the class they represent and in deprivation of their said rights, privileges and immunities, said Defendants have committed the following acts in Starr County and Hidalgo County, Texas:

a. Unlawful harrassment, threats, searches and seizures;

b. Unlawful and groundless, mass and individual arrests, detention, and confinement accompanied by complete disregard for procedural due process of law guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States; and

c. Physical assaults and batteries, causing bodily injury to some of the Plaintiffs.

6. Since on or about June 1, 1966, and continuing until the present, Defendants acting in their official capacities, and acting under color of State statutes and other law, in Starr County and Hidalgo County, Texas, have repeatedly, by their course of conduct, subjected Plaintiffs and members of their class to deprivation of rights, privileges and immunities secured by the Constitu-

tion and laws of the United States, contrary to 42 U.S.C.A./Sec. 1983, as follows:

a. Unlawfully, without legal justification, repeatedly arrested, detained, and confined Plaintiffs and members of their class to defeat fair right of free speech and assembly under the First and Fourteenth Amendments to the Constitution of the United States.

b. Unlawfully arrested, detained and confined Plaintiffs and members of their class without according them procedural due process of law as required by the Fifth and Fourteenth Amendments.

c. Unlawfully threatened, harrassed, and coerced, and physically assaulted and battered Plaintiffs and other members of their class, preventing the exercise of their right of free speech and assembly under the First and Fourteenth Amendments.

7. Specifically, on or about May 26, 1967, Defendants Allee, Van Cleve, and Preiss unlawfully and without warrant or justification arrested Plaintiffs in Hidalgo County and Starr County, Texas, and caused them to be confined in jail, assaulted, and battered Plaintiffs, confiscated personal property belonging to some of said plaintiffs, destroying portions of said property.

And on or about June 1, 1967, Defendants Allee, B. S. Lopez, and Preiss unlawfully and without legal justification assaulted and brutally battered Plaintiffs Magdaleno Dimas and Benjamin Rodriguez causing serious bodily injury to said Dimas and thereafter unlawfully arrested and imprisoned Plaintiffs and other members of the class which they represent.

8. Since on or about May 26, 1967, and continuing to the present, Defendants acting in their official capacities and under color of State statutes and other law have repeatedly deprived Plaintiffs of their right of free expression and speech granted by the First and Fourteenth Amendments of the United States Constitution by unlawfully threatening, intimidating, and coercing members of the press attempting to report the activities of said Plaintiffs and the activities of said Defendants for the purpose of preventing said members of the press reporting Plaintiffs, lawful activities in support of their appeal for public support in furtherance of their lawful concerted activities. Said suppression of press reporting respectively prevents Plaintiffs from exercising their rights of free speech and free expression.

9. The above-described acts and conduct of Defendants were and are in reckless and wanton disregard of the rights and welfare of the citizens whom Defendants have an obligation to protect.

10. Proximately and directly resulting from the unlawful conduct alleged in paragraphs 4, 5, 6, 7, and 8 above, Plaintiffs have been damaged as follows:

a. Loss of their liberty to engage in constitutionally protected speech and assembly;

b. Loss of liberty by imprisonment in jails; and

c. Personal injuries requiring medical attention and expense.

11. Plaintiffs have at all times engaged, or sought to engage in peaceful and lawful exercise of their rights of

free speech and assembly.

Plaintiffs desire to continue to exercise their rights, privileges and immunities, including the right to peacefully picket and advertise their lawful cause.

Defendants threaten to continue to deprive the Plaintiffs of their rights, privileges, and immunities by continued arrests, assaults, harrassment, and confinement.

Plaintiffs fear continued loss of their liberty by repeated arrests, harrassment, confinement, and assaults on their persons depriving them of those rights because of the continued unlawful conduct of Defendants; as recently as May 31, 1967, some of the Plaintiffs or members of the class were again arrested while engaging in peaceful picketing on a public way.

Plaintiffs and other members of the class are suffering and will continue to suffer irreparable injury and deprivation of rights unless Defendants are enjoined against further such conduct. Due to the nature of the rights here sought to be exercised and the fact that this is a strike situation where time is of the essence, there is no adequate remedy at law to protect the rights and privileges and only equitable relief will protect the rights of the Plaintiffs.

ACCORDINGLY, Plaintiffs pray (1) that this Court set this matter for hearing on preliminary injunction, after which the Court grant preliminary injunction against Defendants enjoining them from by any means, including orders, threats, arrests, confinement, or physical assault, preventing Plaintiffs from peacefully and lawfully assembling, picketing and publicizing their labor controversy providing that nothing in said injunction be construed to

affect, prevent, prohibit, or interfere with the Defendants and their deputies, agents, servants, and employees from the lawful discharge of the duties of their offices; (2) that upon trial of the case, said injunction by made permanent.

Respectfully submitted,

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Suite 505 Scanlan Building
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BY _____
Chris Dixie

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ATTORNEYS FOR PLAINTIFFS
Jerome Cohen
Doran Williams

[fol.C]

CIVIL ACTION NO. 67-B-36

IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO, ET AL,

Plaintiffs

vs.

A. Y. ALLEE, ET AL,

Defendants

ANSWER (AS TO CERTAIN OF THE DEFENDANTS)

CRAWFORD C. MARTIN
Attorney General of Texas

R. L. LATTIMORE
Assistant Attorney General

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LONNY ZWIENER
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HOWARD M. FENDER
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CIVIL ACTION NO. 67-B-36

IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO, ET AL,

Plaintiffs

vs.

A. Y. ALLEE, ET AL,

Defendants

ANSWER (AS TO CERTAIN OF THE DEFENDANTS)

COME NOW the following defendants in the above styled and numbered cause to-wit: A. Y. Allee, Jack Van Cleve, Jerome Preiss, T. H. Dawson, and S. H. Denson, hereinafter referred to as Defendant Rangers, appearing by and through the Attorney General of Texas.

I.

(a) Defendant Rangers admit that Plaintiff Medrano is a resident of Dallas County, Texas. Defendant Rangers

admit that Plaintiffs Baker, Lopez, Padilla, Dimas and Rodriguez are residents of Starr County, Texas. Defendant Rangers neither admit nor deny that all plaintiffs are citizens of the United States. Defendant Rangers neither admit nor deny that Plaintiff United Farm Workers Organizing Committee, AFL-CIO, is a voluntary unincorporated labor organization affiliated with the AFL-CIO and require strict proof thereof. Defendant Rangers neither admit nor deny that Plaintiff Padilla is an officer in such alleged union.

(b) Defendant Rangers admit that they are employed by the State of Texas and they they reside in Dimmit County, Texas.

(c) Defendant Rangers make no pleading as to the status and residence of the other named defendants.

II.

Defendant Rangers specially deny that the Plaintiff United Farm Workers Organizing Committee, AFL-CIO, have any standing to sue the defendants for the reason that throughout the complaint there is an absolute failure to show that the representative parties named as plaintiffs will fairly and adequately protect the interests of the association and its members as is required by Rule 23.2 of the Federal Rules of Civil Procedure.

III.

(a) Defendant Rangers deny that this court has jurisdiction under 42 U.S.C.A. § 1983, for the reason that there is no showing in the pleadings that any or all of the Defendant Rangers have under color of any statute,

ordinance, regulation, custom or usage of the State of Texas subjected or caused to be subjected any citizen of the United States or person to the deprivation of any rights, privileges or immunities secured by the Constitution and laws of the United States of America.

(b) Defendant Rangers deny that this court has jurisdiction under 42 U.S.C.A. §1985, for the reason that there is no allegation or showing that any of the following things have been done.

1. No officer of the United States Government has been prevented from doing his duty.

2. No party or witness has been prevented from freely attending court.

3. None of the defendants have gone in disguise on the highways or premises of another for the purpose of denying equal protection of the laws or equal privileges and immunities, nor has anyone been prevented from voting or advocating the election of any person.

(c) Defendant Rangers deny that this court has jurisdiction under 28 U.S.C.A. §1343 for the following reasons:

1. No damages are sought for injury for any act coming under 42 U.S.C.A. §1985.

2. No damages are sought from any person for failing to prevent wrongs covered in 42 U.S.C.A. §1985.

3. No redress is sought for the deprivation under color of any law of the State of Texas or statute, regulation, custom or usage thereunder of any Federal

Constitutional right or right granted by Act of Congress.

4. No damages or equitable relief is sought under any Act of Congress providing for the protection of civil rights, including the right to vote.

(d) Defendant Rangers deny that they have conspired to deprive plaintiffs of their civil rights or that they have conspired for any purpose.

IV.

Defendant Rangers neither admit nor deny that the alleged union and various agricultural and farm workers have been engaged in various concerted activities for the purpose of protecting themselves in their personal work, personal labor, and personal service, and require strict proof thereof. Defendant Rangers neither admit nor deny that the officers and members of the alleged union and other persons sympathetic to their cause have sought by peaceful picketing and other lawful conduct to disseminate the facts of working conditions in Starr County, Texas, and require strict proof thereof.

V.

Defendants deny generally that they have conspired and acted together among themselves or with others or that they have acted individually under color of State statutes and other laws with the object of depriving plaintiffs and the class they allegedly represent of any rights, privileges and immunities protected by the laws and Constitution of the United States or of equal protection, privileges and immunities under the United States Constitution and laws,

or that they have in any way injured plaintiffs or the members of the class plaintiffs allegedly represent.

(a) Defendant Rangers specifically deny that they have indulged in unlawful harassment, threats, searches and seizures.

(b) Defendant Rangers deny that they have indulged in unlawful and groundless mass and individual arrests, detention and confinement accompanied by complete disregard for procedural due process of law guaranteed by the United States Constitution.

(c) Defendant Rangers deny that they have indulged in physical assault and batteries which caused bodily injury to some of the plaintiffs.

VI.

Defendant Rangers generally deny that they have during the time indicated in the complaint subjected plaintiffs and members of their alleged class to deprivation of rights, privileges, and immunities secured by the Constitution and laws of the United States and specifically deny the individual allegations below.

(a) Defendant Rangers deny that they have unlawfully, without legal justification, repeatedly arrested, detained and confined plaintiffs and members of their class in order to defeat a fair right of free speech and assembly under the First and Fourteenth Amendments of the Constitution of the United States.

(b) Defendant Rangers deny that they have unlawfully arrested, detained and confined plaintiffs and members of

their alleged class without according them procedural due process of law as required by the Fifth and Fourteenth Amendments.

(c) Defendant Rangers deny that they have unlawfully threatened, harassed, and coerced, and physically assaulted and battered plaintiffs and other members of their class, thereby preventing the exercise of their right of free speech and assembly under the First and Fourteenth Amendments.

VII.

(a) Defendants Allee, Van Cleve, and Preiss deny that they unlawfully and without warrant or justification arrested plaintiffs in Hidalgo and Starr County, Texas on May 26, 1967, and caused them to be confined in jail, assaulted, and battered. Defendants Allee, Van Cleve and Preiss deny that they unlawfully confiscated personal property belonging to some of the plaintiffs and that they unlawfully destroyed portions of said property.

(b) Defendants Allee and Preiss deny that on or about June 1, 1967, they unlawfully and without legal justification assaulted and brutally battered Plaintiffs Dimas and Rodriguez, thereby causing serious bodily injury to Dimas, and that they thereafter unlawfully arrested and imprisoned plaintiffs and other members of the alleged class which they claim to represent.

VIII.

Defendant Rangers deny that they have denied plaintiffs of their right of free expression and speech granted by the First and Fourteenth Amendments of the United States

Constitution. Defendant Rangers deny that they have unlawfully threatened, intimidated and coerced members of the press, who were attempting to report the activities of the plaintiffs and the defendants. Defendant Rangers deny that they have acted with the purpose of preventing the members of the press from reporting things that they observed.

IX.

Defendant Rangers deny that they have indulged in any acts or conducts in reckless and wanton disregard of the rights and welfare of any citizens.

X.

(a) Defendant Rangers deny that the plaintiffs have lost their liberty to engage in constitutionally protected speech and assembly.

(b) Defendant Rangers deny that plaintiffs have lost their liberty by reason of imprisonment in jail, except insofar as imprisonment was necessary for effective law enforcement.

(c) Defendant Rangers deny that they have unlawfully caused personal injuries requiring medical attention and expense.

XI.

(a) Defendant Rangers deny that plaintiffs have at all times engaged, or sought to engage, in peaceful and lawful exercise of their right to free speech and assembly.

(b) Defendant Rangers have no way of knowing whether or not plaintiffs desire to continue to exercise their rights, privileges, and immunities, including the right to peacefully picket and advertise their lawful cause.

(c) Defendant Rangers deny that they threatened to continue to deprive the plaintiffs of any rights, privileges and immunities by any means.

(d) Defendant Rangers neither admit nor deny that plaintiffs have certain fears but allege affirmatively that plaintiffs have no reason to fear any action on the part of Defendant Rangers so long as plaintiffs conduct themselves peacefully and in accordance with law.

(e) Defendant Rangers deny that plaintiffs and other members of the alleged class are suffering and will continue to suffer irreparable injury and deprivation of rights. Defendant Rangers deny that there is a strike situation where time is of the essence as there has been so showing of any activity under the laws of the State of Texas or of the United States indicating protected union activity.

XII.

Defendant Rangers affirmatively urge for the consideration of the court that any arrests made of any of the plaintiffs and any physical harm that may have resulted to any of the plaintiffs during the time concerned in this lawsuit, resulted from lawful activities of the Defendant Rangers in doing what appeared to be reasonably necessary to them at the time in the carrying out of their lawful duties to prevent riots, affrays, or other disturbances.

WHEREFORE, PREMISES CONSIDERED, Defendant Rangers pray the court that plaintiffs take nothing by their suit, that said cause of action be dismissed, and that plaintiffs be sent hence without day, and of this they put themselves upon the country.

Respectfully submitted,

**CRAWFORD C. MARTIN
Attorney General of Texas**

**R. L. LATTIMORE
Assistant Attorney General**

**ALLO CROW
Assistant Attorney General**

**LONNY ZWIENER
Assistant Attorney General**

**HOWARD M. FENDER
Assistant Attorney General**

ATTORNEYS FOR DEFENDANTS

**BOX "R" CAPITOL STATION
AUSTIN, TEXAS 78711**

CERTIFICATE OF SERVICE

I Howard M. Fender, Assistant Attorney General of Texas, do hereby certify that a copy of the above and foregoing Answer (As To Certain Of The Defendants) has been deposited in the United States Mail, postage prepaid, to Dixie and Schulman, Suite 505 Scanlan Building, Main at Preston, Houston, Texas 77002; Jerome Cohen, 1511 12th Avenue, Delano, California (via air mail); and, Doran Williams, P. O. Box 54, Rio Grande City, Texas, Attorneys for Plaintiffs, this the 3rd day of August, 1967.

HOWARD M. FENDER

[fol.D]

IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF TEXAS

BROWNSVILLE DIVISION

FRANCISCO MEDRANO, KATHY BAKER,
DAVID LOPEZ, GILBERT PADILLA,
MAGDALENO DIMAS, BENJAMIN RODRIGUEZ,
AND UNITED FARM WORKERS ORGANIZING
COMMITTEE, AFL-CIO,

Plaintiffs

VS.

CIVIL ACTION NO. 67 B 36

A. Y. ALLEE, JACK VAN CLEVE, JEROME
PREISS, T. H. DAWSON, DR. RENE SOLIS,
RAUL PENA, ROBERTO PENA, AND JIM
ROCHESTER, AND B. S. LOPEZ, AND S. H.
DENSON

Defendants

AMENDED COMPLAINT

COME NOW the following Plaintiffs as individuals and as class representatives: Francisco Medrano, Kathy Baker, David Lopez, Gilbert Padilla, Magdaleno Dimas, Benjamin Rodriguez, and United Farm Workers Organizing Committee, AFL-CIO, complaining of the following Defendants: S. H. Denson, A. Y. Allee, Jack Van Cleve, Jerome Preiss, T. H. Dawson, Dr. Rene Solis, Raul Pena, Roberto Pena, Jim Rochester, and B. S. Lopez, and as cause of action would show the following:

1. Plaintiff Medrano is a resident of Dallas County, Texas. Plaintiffs Baker, Lopez, Padilla, Dimas and Rodriguez are residents of Starr County, Texas. All Plaintiffs are citizens of the United States. Plaintiff United

Farm Workers Organizing Committee, AFL-CIO is a voluntary unincorporated labor organization affiliated with the AFL-CIO, hereinafter denominated the "Union". Plaintiff Padilla is an officer in that Union.

Defendants Allee, Van Cleve, Preiss, Dawson and Denson are Texas Rangers, employees of the State of Texas, and residents of Dimmit County, Texas.

Defendant Solis is the Sheriff of Starr County, Texas, and resides in said County. Defendants Raul Pena and Roberto Pena are Deputy Sheriffs of Starr County, Texas, and residents of that County, and as such residents of the Southern District of Texas. Defendant B. S. Lopez is a Justice of the Peace in Starr County, Texas, Precinct No. 1.

Defendant Jim Rochester is a Special Deputy of the Starr County Sheriff's Department and a resident of Starr County, Texas, and a resident of the Southern District of Texas. At material times this defendant has also been a vice-principal or agent of one of the private employers hereinafter referred to.

2. This action is brought by the Plaintiffs individually and as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure. The class of persons on whose behalf this action is prosecuted is all persons who—either because of their membership in said Union, or because of their sympathy and voluntary support of said Union in its labor dispute with certain employers in Starr County, Texas—have engaged in, are engaging in, and desire to continue to engage in constitutionally protected free speech and peaceful assembly, including lawful peaceful picketing and other forms of

publicity. Said group is a group of persons so numerous that joinder of all members is impracticable. There are questions of law common to the class, and the claims of the representative parties are typical of the claims of the class of persons affected by the conduct of the Defendants herein complained of. Said Plaintiffs as representatives of the class will fairly and adequately protect the interests of the class.

3. This court has jurisdiction under 42 U.S.C.A. § 1983 and 1985, and 28 U.S.C.A. § 1343, this being a claim for redress against certain persons who, acting under color of State law, have conspired to deprive Plaintiffs of their civil rights, privileges and immunities protected by the laws and the Constitution of the United States, and who, acting under color of State law, have deprived Plaintiffs of their constitutionally protected rights, privileges and immunities.

Also, this is a civil action seeking declaratory and injunctive relief against certain statutes of the State of Texas. It seeks to prevent and redress the deprivation, under color of law of the State of Texas, of rights, privileges and immunities secured by the Constitution and laws of the United States. Jurisdiction of this Court is founded upon U.S.C. 28, Section 1343(3) and Sections 2201 and 2202, and 42 U.S.C., Sections 1983 and 1985, and the First and Fourteenth Amendments to the Constitution of the United States. This is a proper case for determination by a three-judge court pursuant to 28 U.S.C., Sections 2281 and 2284, because it seeks inter alia, injunctive relief against the enforcement of statutes of the State of Texas upon the ground of their unconstitutionality, both on their face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States.

4. Since on or about June 1, 1966, and continuing to the present, the Union and various agricultural and farm workers have been engaged in various concerted activities for the purpose of protecting themselves in their personal work, personal labor, and personal service, as authorized by the laws and Constitution of the United States. Since said date, and continuing to the present, officers and members of that organization and other persons sympathetic to their cause have sought, by peaceful picketing and other lawful conduct, to disseminate the facts of working conditions of such workers in Starr County, Texas, and in the Rio Grande Valley of Texas.

Certain persons who were Union agents or members at material times hereto are Eugene Nelson, William Chandler, Tony Orendein, Bengamin Rodriguez, Cathy Lynch, Elida Garcia, Librado de la Cruz and Reynaldo de la Cruz.

5. Since the beginning of such activities and continuing to the present, Defendants and other members of the Starr County Sheriff's Department and other members of the Department of Public Safety of the State of Texas, acting in their official capacities and under color of State statutes and other laws, have conspired among themselves in Starr County, Texas, and with other public officials, one of whom is Hon. Randall Nye, County Attorney of Starr County, who at material times hereto has also been private counsel for one or more of the employers hereinafter referred to, and likewise with employers of the said farm and agricultural workers, for the purpose and with the object of depriving Plaintiffs and the class they represent of rights, privileges and immunities protected by the laws and Constitution of the United States and of equal protection, privileges and immunities under the United

States Constitution and laws; in furtherance of which conspiracy and to the injury of the Plaintiffs and members of the class they represent and in deprivation of their said rights, privileges and immunities, said Defendants have committed the following acts in Starr and Hidalgo Counties, Texas:

a. Unlawful harrassment, threats, searches and seizures;

b. Unlawful and groundless, mass and individual arrests, detention, and confinement accompanys by complete disregard for procedural due process of law guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States; and,

c. Physical assaults and batteries, causing bodily injury to some of the Plaintiffs.

6. Since on or about June 1, 1966, and continuing until the present, Defendants acting in their official capacities, and acting under color of State statutes and other law, in Starr County and Hidalgo County, Texas, have repeatedly, by their course of conduct, subjected Plaintiffs and members of their class to deprivation of rights, privileges and immunities secured by the Constitution and laws of the United States, contrary to 42 U.S.C.A. §1983, as follows:

a. Unlawfully, without legal justification, repeatedly arrested, detained, and confined Plaintiffs and members of their class to defeat their right of free speech and assembly under the First and Fourteenth Amendments to the Constitution of the United States.

b. Unlawfully arrested, detained and confined Plaintiffs and members of their class without according them procedural due process of law as required by the Fifth and Fourteenth Amendments.

c. Unlawfully threatened, harrassed, and coerced, and physically assaulted and battered Plaintiffs and other members of their class, preventing the exercise of their right of free speech and assembly under the First and Fourteenth Amendments.

7. Specifically, Defendants and their co-conspirators, acting together, have committed the following overt acts:

7.1 Soon after the commencement of Plaintiff's activities on June 1, 1966, and continuing until the filing of suit, a certain newspaper known as "La Verdad" has been published in Corpus Christi, Texas, by private parties, which publication has regularly, systematically, and vigorously attacked and criticized plaintiff Union, its leaders, programs and sympathizers. Said publication has been regularly and systematically distributed to the public in Rio Grande City through and from the office of the Sheriff of Starr County.

7.2 On or about June 2, 1966, member Nelson was engaged in peaceful picketing at the Roma international bridge. Defendant Raul Pena arrested Nelson and caused him to be incarcerated in the Starr County jail for four hours without charge. Co-conspirator Nye then sought to intimidate Nelson by interrogation.

7.3 On or about October 12, 1966, Union members were peacefully picketing on United States Highway 83 adjacent to Rancho Grande Farms, appealing to

employees thereof to make common cause with the Union. Member Chandler was sitting in a parked car near the pickets. Defendant Raul Pena arrived with several deputy sheriffs. The deputies drove their car between the pickets and the workers, disembarked, and began shouting to the employees of Rancho Grande Farms in Spanish. Member Chandler approached the deputies and asked why they were there, whereupon they arrested Chandler and charged him with the use of loud and vociferous language calculated to disturb the inhabitants of Highway 83 in violation of Texas Penal Code, Article 474.

7.4 On or about October 24, 1966, Union's President Arredondo was among a group of persons who had been arrested at the Roma international bridge and taken under arrest to the office of the Sheriff of Starr County in Rio Grande City. As the group was entering the courthouse, he joined the others in chanting "Viva la huelga" (Long live the strike). Deputy Sheriff Ellert physically struck Arredondo and threatened him with a loaded and cocked pistol. He told Arredondo not to utter those words in the courthouse again.

7.5 On or about November 3, 1966, members of the Union engaged in picketing against the packing sheds of La Casita Farms situated near Highway 83 near Rio Grande City. On said occasion said picketing took place on or across the railroad tracks of the Missouri Pacific Railroad. On account thereof, on November 9, 1966, Defendant Roberto C. Pena filed complaint against Irene Chandler, Stephen Lee Holton, Reynaldo de la Cruz, Baldemar Diaz, Tony Orendain, Domingo Arredondo, Ismael Dias, Agustin Serratos, Magdaleno Dimas, and Guillermo de la Cruz, all of whom are Union

leaders or sympathizers, charging them with violation of Article 5154f, the Texas Secondary Picketing Statute. Co-conspirator Nye, as County Attorney, filed an information against each of said persons. On November 9, 1966, warrants of arrest pursuant to said complaint and information were issued and delivered to Texas Rangers who proceeded to arrest the said persons and caused them to be jailed. Article 5154f, which was so invoked, had been declared unconstitutional by the Supreme Court of Texas in the year 1949.

7.6 On or about November 7, 1966, a female picket, Zoila Ozuna, was standing in front of a stopped bus near the entrance to La Casita Farms. Defendant Jim Rochester boarded the said bus and angrily started it in motion in order to deliver its occupants to the farm as workers. In so moving the bus, he struck the said Zoila Ozuna. She attempted to file appropriate charges on account thereof, but the episode was investigated by Texas Rangers who measured distances and interviewed Defendant Jim Rochester, but did not talk to the said Zoila Ozuna or other witnesses. No charges were filed on account of said incident, in sharp contrast to the zeal of Defendants in filing charges against the Union and its sympathizers.

7.7 On or about November 28, 1966, Plaintiffs and other Union members and sympathizers held a rally on the grounds of the Starr County Courthouse. When they placed Union banners and flags on such public property as decorations, Defendant Raul Pena and other deputy sheriffs under his direction followed Plaintiffs and their sympathizers and removed the banners and flags as soon as they were so displayed.

7.8 On or about December 18, 1966, a caravan of Union supporters bearing food and clothing arrived in Rio Grande City. Plaintiff Dimas undertook to direct traffic at the intersection of U. S. Highway 83 and Farm Road 775. On this occasion, Defendant Roberto Pena struck Dimas with his car.

7.9 On or about December 28, 1966, members of the Union were picketing peacefully near the main entrance to La Casita Farms. Defendant Roberto Pena arrested Librado de la Cruz and spuriously charged him with assault on one Manuel Balli. Co-conspirator Nye charged de la Cruz with attempting to prevent Balli from engaging in his vocation on account of the same incident. On the same occasion, Roberto Pena arrested Union members Pedro Dimas, Maximiliano Perez, Eva Medoza, and Matilde A. Garza and charged them with obstructing a public road in violation of Texas Penal Code, Article 784. On the Same occasion he also arrested Pedro Dimas for interfering with the arrest of de la Cruz. On the same occasion he arrested William L. Chandler, Jr. for using loud and vociferous language in violation of Penal Code, Article 474. All these arrests and charges were a spurious, wholesale dispersal of the peaceful picketing.

7.10 On or about December 29, 1966, Union members Reynaldo de la Cruz and Pedro Dimas were in the offices of the Union in Rio Grande City wearing small tin badges of the type found as prizes in boxes of "cracker jacks". Defendant Raul Pena and another deputy sheriff arrested them and caused them to be jailed, charging them with impersonating an officer in violation of Texas Penal Code, Article 429.

7.11 On or about January 26, 1967, five members of the Union, to-wit: Benito Rodriguez, Librado de la Cruz, Reynaldo de la Cruz, Benjamin R. Luna, Jr. and Benjamin R. Luna, Sr. were peacefully gathered on the banks of the Rio Grande River and were engaged in peaceful persuasion directed toward employees of the Trophy Farms to make common cause with the Union. Defendant Roberto Pena and other deputies arrested all of them and charged them with use of abusive language in violation of Penal Code, Article 482. At the same time the officers confiscated the loud speaker which they had with them.

7.12 On or about January 26, 1967, about 7:00 p.m., Plaintiff Padilla and Union member Rev. James Drake engaged in prayer outside the Starr County Courthouse on the premises thereof. Defendant Raul Pena caused the said Drake and Padilla to be arrested for unlawful assembly in violation of Penal Code, Articles 439 and 449, by filing a sworn charge that their actions constituted an unlawful assembly with the intent on their part to deprive the night custodian of the Starr County Courthouse of his peaceful environment in performance of his duties as such custodian.

7.13 On or about February 1, 1967, member Orendain and three other Union members, together with five sympathizers who were Roman Catholic priests, were peacefully assembled on certain private property owned by one Thomas Bazan by permission of the owner. The said group went to the said private property by traversing a road between that property and La Casita Farms, which road is customarily used by the public as a public access road to the Bazan property. After arrival the group engaged in peacefully appealing

to workers in the La Casita fields to make common cause with the Union. Defendant Roberto Pena and Defendant Jim Rochester, acting together, caused the arrest of all of said persons and charged them with disturbing the peace in violation of Texas Penal Code, Article 474.

7.14 On said occasion of February 1, 1967, Plaintiff Rodriguez was walking along the road between certain property owned by said Thomas Bazan and property of La Casita Farms. Defendant James Rochester pursued the said Rodriguez and fired a pistol at Rodriguez. Defendant Rochester jailed Rodriguez and caused him to be charged with disturbing the peace in violation of Texas Penal Code, Article 474.

7.15 On or about April 13, 1967, the National Labor Relations Board conducted an election at the Star Produce Company packing shed, in which election plaintiff Union was a candidate for selection as bargaining representative of the employees of said company under Federal law. At the customary pre-hearing conference held immediately before the opening of the polls, co-conspirator Nye appeared as attorney for the Star Produce Company, although said company was also represented by private attorneys who were specialists in the field of labor law. During the course of the balloting, Defendant Raul Pena and Constable Manuel Benevides appeared at the polling place. Although they were directed to leave by the representative of N.L.R.B., they stationed themselves in their car which was parked alongside the shed near Highway 83. When the polls closed the N.L.R.B. representative carried the ballot box a distance of about 150 yards to the company office for

the purpose of counting the ballots. The said two peace officers followed along behind the said N.L.R.B. representative in their car.

7.16 On or about May 11, 1967, Union member Ismael Diaz and others were engaged in peaceful picketing at the Roma international bridge. Because there was no traffic on said bridge, the picketers entered a car to drive to the international bridge at Rio Grande City, which was about to be opened for traffic at about 8:00 a.m. Defendant Allee overtook and stopped the car containing the picketers, arrested Diaz and caused him to be incarcerated for four hours on charges of driving without a license. Defendant Allee had no cause to stop said car except to interfere with the prospective picketing of the bridge at Rio Grande City. Later, at the Rio Grande City international bridge, while Union members and sympathizers were peacefully picketing on a public road without blocking traffic, Defendant Van Cleve physically pushed Plaintiff Lopez and others. At the same time Defendant Allee told Union members that they should return to work and abandon their strike. Later, Plaintiff Lopez attempted to file charges against Defendant Van Cleve, but co-conspirator Nye has taken no action thereon in contrast to the zeal of Defendants in filing charges against sympathizers of plaintiff Union.

7.17 On or about May 12, 1967, Nelson went to the office of the Sheriff of Starr County to lodge a protest with appropriate enforcement officials against what he believed was partial conduct by the Defendant Rangers near La Casita Farms in interrogating and challenging Union sympathizers who had on that date assembled on the private property of one Solis with the owner's

permission and who were appealing to the workers on La Casita properties to make common cause with the Union. On said occasion Nelson found no Rangers in said office, but he spoke to Constable Manuel Benevides. The said Benevides is the elected constable in Starr County and also an employee of La Casita Farms. During the conversation Nelson stated that United States Senators were about to investigate the situation in the Valley and that there would be some red-faced Rangers. Benevides allowed Nelson to depart, but he later caused Nelson to be arrested by filing a charge against him alleging that, on said occasion, Nelson had seriously threatened to take the life of four named Texas Rangers, or any other Texas Rangers. A warrant was issued pursuant to said charge and was delivered to Texas Rangers for execution. Defendant Van Cleve, acting with three other Rangers, arrested Nelson pursuant to said warrant, and threatened and abused Nelson while he had Nelson under arrest. The charge against Nelson was known to be a ruse by the persons who made it, or caused it to be made. Neither Benevides or anyone acting in concert with him believed in good faith that Nelson had seriously threatened to take the life of all Texas Rangers or any Texas Ranger. Between May 12 and May 14, Defendants Raul Pena and co-conspirator Nye refused to allow Nelson to make bond. On Friday, May 12, Nelson's attorney tendered to Raul Pena a surety bond which had been executed by one Joseph Guerra, who was at all times well known to Raul Pena to be a person who owned substantial real property in Starr County. In refusing said bond on said occasion, Raul Pena threw the bond on the floor and stated that he did not know if the surety owned property (although he well knew that he did) and demanded real property tax receipts which could not be obtained until the

following Monday. On the following Monday, May 15, Defendant Raul Pena permitted Nelson to be released on bond after requiring exhibition to him of approximately 15 pages of tax records reflecting the ownership of thousands of acres of land by the said surety.

7.18 On or about May 18, 1967, Plaintiffs' sympathizers, Reyes Alaniz, Pedro Mendez, Gustavo Diaz, Mario Vera, Guillermo de la Cruz, Donato Bayan, Rafael Trevino, Ramona Olivarez, Anita Rosa, Maria Guadalupe Saenz, Viviana Segonia, Elodia Valadez, Reynaldo de la Cruz, Severo Beanvitez, Benito Rodriguez, Librado de la Cruz, Octavio de la Cruz, Pedro Lopez, Victor Lopez, Magdaleno Dimas, and Horacio P. Carillo were peacefully assembled near the entrance to Trophy Farms on U. S. Highway 83 for the purpose of asking workers for such farm to make common cause with the Union. Defendant Allee and other Texas Rangers arrested Plaintiffs' sympathizers, jailed them and charged them with mass picketing in violation of Article 5154d, Revised Civil Statutes of Texas.

7.19 On or about May 25, 1967, Plaintiffs Padilla, Lopez and Union member Eugene Nelson were crossing a public street in Rio Grande City. Defendant Allee ordered Nelson into his car and later gave the same order to Padilla and Lopez. When two representatives of an investigating committee of the United States Civil Rights Commission approached, Allee explained to them that he wanted the three men to help him investigate a report that someone was creating a disturbance under some bridge. Allee then directed Nelson out of his car but requested the three men to

follow him in their own car. Allee then departed at a high speed and made it impossible for the three men to follow him as he directed.

7.20 On or about May 26, 1967, Plaintiff's sympathizers, Octavis de la Cruz, Irene Chandler, Daria A. Vera, Mario Vera, Benjamin R. Leman, Librado de la Cruz, Cathy Lynch, F. F. Medrano, Kathy Baker, and Magdaleno Dimas were near the intersection of the Missouri Pacific Railroad tracks and Conway Street in Mission, Hidalgo County, Texas. Three or four persons engaged in peaceful picketing at that intersection. All were arrested, jailed and charged with violation of Article 5154f, Revised Civil Statutes of Texas. Five Hundred Dollar (\$500.00) cash bonds were required for their release. The arrests were made by defendant Texas Rangers and said arrests were accompanied by blows, pushes, shoves and menacing and threatening language.

7.21 On or about May 31, 1967, Union member Arredondo and two other Union members were walking along a public road on the west periphery of La Casita Farms. Arredondo and one of the members carried picket signs. The other members talked to workers in the fields through a loud speaker. Defendant Rochester drove a pickup truck between the Union members and the workers and played a radio through his own amplifier in order to drown out the amplifier of the Union members. Defendant Allee arrived on the scene, shook hands with Jim Rochester, and arrested the said three Union members, plus ten other Union members who had remained in or about their nearby cars. Allee caused all of them to be jailed on charges of mass picketing in violation of Article 5154d, Revised Civil Statutes of Texas.

7.22 On or about June 1, 1967, Plaintiffs Magdaleno Dimas and Benjamin Rodriguez were in a house rented by the Union in Rio Grande City. Soon after they finished their evening meal, Defendants Allee, Dawson, Roberto Pena and B. S. Lopez arrived. After soliciting and obtaining Lopez' instruction to arrest Dimas and Rodriguez, Defendants Allee, Dawson and Pena kicked in the door of the house and then struck and injured Dimas and Rodriguez with double-barrelled shotguns, their fists and their feet, arrested them, jailed them, and charged them with disturbing the peace in violation of Article 474, Texas Penal Code.

7.23 On or about June 1, 1967, member Cathy Lynch, Elida Garcia, Librado de la Cruz and Reynaldo de la Cruz were in Mission, Hidalgo County, Texas, near the intersection of the Missouri Pacific Railroad tracks and Conway Street. Said Plaintiffs had peacefully assembled at said location for the purpose of peacefully advertising the dispute between Plaintiffs and the growers in Rio Grande City. Defendant Texas Rangers arrested all four Plaintiffs, jailed them, and charged them with violation of Article 5154f, Revised Civil Statutes of Texas.

8. An integral part of the course of conduct of Defendants above alleged has been the use of certain statutes of the State of Texas for the purpose of jailing, molesting, interfering with and frustrating Plaintiffs in the exercise of their constitutional rights. Defendants have many times publicly announced that they will continue to make arrests, charges and prosecutions under the said statutes, thereby presenting to those who would sympathize with Plaintiffs the prospect of future arrests and prosecutions, thereby chilling the willingness of people to

exercise their First Amendment rights of free speech, assembly, association, and petition for redress of grievances. Furthermore, in addition to the facial unconstitutionality of the statutes utilized by Defendants, Defendants have engaged in selective enforcement by application and arrest under said statutes to all who make common cause with Plaintiffs. Furthermore, Defendants have on numerous occasions utilized statutes for the purpose of arrest and prosecution when, as they well knew, there was no evidence which would support a conviction, the Defendants' sole purpose being to confront Plaintiffs with the fear and danger of arrest and prospect of interminable court litigation as the price of sympathy with Plaintiffs and participation with them.

9. As heretofore alleged, Defendants have acted under color of certain statutes of the State of Texas and have purposely entered into a scheme or plan of concerted and joint action with other persons to subject Plaintiffs to the deprivation of their rights, privileges and immunities secured to them by the Constitution and Laws of the United States. The statutes so utilized which are here challenged as to their constitutionality are as follows:

A. Article 5154d of Vernon's Annotated Civil Statutes of Texas provides:

Art. 5154d. Picketing

Section 1. It shall be unlawful for any person, singly or in concert with others, to engage in picketing or any form of picketing activity that shall constitute mass picketing as herein defined.

"Mass picketing," as that term is used herein, shall mean any form of picketing in which:

1. There are more than two (2) pickets at any time within either fifty (50) feet of any entrance to the

premises being picketed, or within fifty (50) feet of any other picket or pickets.

2. Pickets constitute or form any character of obstacle to the free ingress to and egress from any entrance to any premises being picketed or to any other premises, either by obstructing said free ingress or egress by their persons or by the placing of vehicles or other physical obstructions.

The term "picket," as used in this Act, shall include any person stationed by or acting for and in behalf of any organization for the purpose of inducing, or attempting to induce, anyone not to enter the premises in question or to observe the premises so as to ascertain who enters or patronizes the same, or who by any means follows employees or patrons of the place being picketed either to or from said place so as either to observe them or attempt to persuade them to cease entering or patronizing the premises being picketed.

The term "picketing," as used in this Act, shall include the stationing or posting of one's person or of others for and in behalf of any organization to induce anyone not to enter the premises in question, or to observe the premises so as to ascertain who enters or patronizes the same, or to follow employees or patrons of the place being picketed either to or from said place so as either to observe them or attempt to persuade them to cease entering or patronizing the premises being picketed.

Sec. 2. It shall be unlawful for any person, singly or in concert with others, by use of insulting, threatening or obscene language, to interfere with, hinder, obstruct, or intimidate, or seek to interfere with, hinder, obstruct, or intimidate, another in the exercise of his lawful right to work, or to enter upon the performance of any lawful vocation, or from freely entering or leaving any premises.

Sec. 3. It shall be unlawful for any person, singly or in concert with others, to engage in picketing or any form of picketing activities, where any part of such picketing is accompanied by slander, libel, or the public display or publication of oral or written misrepresentations.

Sec. 4. It shall be unlawful for any person, singly or in concert with others, to engage in picketing, the purpose of which, directly or indirectly, is to secure the disregard, breach or violation of a valid subsisting labor agreement arrived at between an employer and the representatives designated or selected by the employees for the purpose of collective bargaining, or certified as the bargaining unit under the provisions of the National Labor Relations Act.¹

Sec. 4a. It shall be unlawful for any person, singly or in concert with others, to declare, publicize or advertise the continued existence of picketing, actual or constructive, at any point or directed against any premises after a court of competent jurisdiction has enjoined and restrained the continuance of such picketing at said point or premises.

Sec. 5. Any person guilty of violating any of the Sections of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), or be imprisoned in jail not to exceed ninety (90) days, or both. Each separate act of violation shall constitute a separate offense.

Sec. 6. If any clause, sentence, paragraph or part of this Act or the application thereof, to any person or circumstances, shall for any reason be adjudged to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act and the application thereof, it being the expressed intention of the Legislature to enact such Act without respect to such

Section or part so held to be invalid. Acts 1947, 50th Leg., p. 239, ch. 138.

¹ 29 U.S.C.A. § 151 et seq.

The Texas Mass Picketing Statute is unconstitutional, both on its face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States because:

1. It is vague, in that it fails to establish any ascertainable standard of guilt.

2. It is overbroad in that it encompasses within its scope activity which is clearly protected by federal guarantees of free speech, assembly and petition.

3. It is susceptible of sweeping and improper application.

4. It abridges Plaintiffs' rights of free speech, assembly and petition in that it punishes in all cases the presence of more than two pickets within 50 feet of any entrance or 50 feet of any other picket, and by so defining pickets as to include practically everyone, and by its vague and amorphous prohibition of language and communication.

B. Article 5154f of Vernon's Annotated Civil Statutes of Texas provides:

Art. 5154f. Secondary strikes, picketing and boycotts prohibited

Section 1. It shall be unlawful for any person or persons, or association of persons, or any labor union, incorporated or unincorporated, or the members or

agents thereof, acting singly or in concert with others, to establish, call, participate in, aid or abet a secondary strike, or secondary picketing, or a secondary boycott, as those terms are defined herein.

Sec. 2. As used in this Act:

a. The term "labor union" means every association, group, union, national and local, branch or subordinate organization of any union of working men, incorporated or unincorporated, organized and existing in part for the purpose of protecting themselves and improving their working conditions, wages, or employment relationships in any manner, and shall include the local, state, national and international affiliates of such organizations or unions.

b. "Secondary strike" shall mean a temporary stoppage of work by the concerted action of two or more employees of an employer where no labor dispute exists between the employer and such employees, and where such temporary stoppage results from a labor dispute to which such two or more employees are not parties.

c. The term "picket" shall include any person stationed by or acting in behalf of any organization for the purpose of inducing anyone not to enter the premises in question; or for apprising the public by signs, banners, or other means, of the existence of a labor dispute at or near the premises in question; or for observing the premises so as to ascertain who enters or patronizes the same; or any person who by any means follows employees or patrons of the place being picketed either to or from such place so as to either observe them or to attempt to persuade them to cease entering or patronizing the premises being picketed.

d. The term "secondary picketing" shall mean the act of establishing a picket or pickets at or near the premises of any employer where no labor dispute, as

that term is defined in this Act, exists between such employer and his employees.

e. The term "secondary boycott" shall include any combination, plan, agreement or compact entered into or any concerted action by two or more persons to cause injury or damage to any person, firm or corporation for whom they are not employees, by

(1) Withholding patronage, labor or other beneficial business intercourse from such person, firm or corporation; or

(2) Picketing such person, firm or corporation; or

(3) Refusing to handle, install, use or work on the equipment or supplies of such person, firm or corporation; or

(4) Instigating or formenting a strike against such person, firm or corporation; or

(5) Interfering with or attempting to prevent the free flow of commerce; or

(6) By any other means causing or attempting to cause an employer with whom they have a labor dispute to inflict any damage or injury to an employer who is not a party to such labor dispute.

f. The term "employer" means any person, firm or corporation who engages the services of an employee.

g. The term "employee" shall include any person, other than an independent contractor, working for another for hire in the State of Texas.

h. The term "labor dispute" is limited to and means any controversy between an employer and the majority of his employees concerning wages, hours or conditions of employment; provided that if any of the employees are members of a labor union, a controversy between such employer and a majority of the employees belonging to such union, concerning wages, hours or conditions of employment, shall be deemed, as to the employee members only of such union, a labor dispute within the meaning of this Act.

Sec. 3. Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding Five Hundred (\$500.00) Dollars, or by confinement in the county jail not to exceed six months, or by both such fine and imprisonment.

Sec. 4. Any person who violates any of the provisions of this Act shall be liable to the person suffering the same for all damages resulting therefrom, and the person damaged is hereby given right of action and access to the courts to redress such wrong or damage, including injunctive relief; and any association or labor union, local, state, national or international, which represents or purports to represent any such person violating any of the provisions of this Act shall be jointly and severally liable with any such person for all such damages resulting thereby.

Sec. 5. The State of Texas, through its Attorney General or any District or County Attorney, may institute a suit in the District Court to enjoin any person, association of persons, labor union, firm or corporation, or any officer, agent, servant or employee of such person, association of persons, labor union, firm or corporation, from violating any provision of this Act.

Sec. 6. In any suit or cause of action arising under this Act, venue shall lie: (1) in the county where such violation is alleged to have occurred; (2) in the county of the residence of the defendant; (3) in the county of the residence of either defendant if there be two or more defendants.

Sec. 7. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 8. If any section, sentence, phrase or part of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the

remaining portions thereof; it being the intention of the Legislature to pass the constitutional sections, sentences, phrases and parts of this Act even though some one or more sections, sentences, phrases or parts shall be held to be invalid. Acts 1947, 50th Leg., p. 779, ch. 387.

The said Texas Statute is unconstitutional, both on its face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States because:

1. It is vague in that it fails to establish any ascertainable standard of guilt.

2. It is overbroad in that it encompasses within its scope activity which is clearly protected by federal guarantees of free speech, assembly and petition.

3. It is susceptible of sweeping and improper application.

4. It abridges Plaintiffs' rights of free speech, assembly and petition, in that it punishes the exercise thereof because of the lack of participation therein of a majority of the employees of an employer, regardless of the pertinence, truth and legality of the message to be communicated.

In this connection, Plaintiffs show the Court that the said Statute has been declared unconstitutional in pertinent respects by the Supreme Court of Texas in the case of *International Union of Operating Engineers v. Cox*, 148 Tex. 42, 219 S.W.2d 787, in the year 1949.

C. Articles 439 and 449 of the Penal Code of the State of Texas, known as the Unlawful Assembly Statutes, provide:

Article 439. 435, 299 "Unlawful assembly"

An "unlawful assembly" is the meeting of three or more persons with intent to aid each other by violence or in any other manner either to commit an offense or illegally to deprive any person of any right or to disturb him in the enjoyment thereof.

Art. 449. 445, 309 To prevent any person from pursuing his labor

If the purpose of the unlawful assembly be to prevent any person from pursuing any labor, occupation or employment, or to intimidate any person from following his daily avocation, or to interfere in any manner with the labor or employment of another, the punishment shall be by fine not exceeding five hundred dollars.

The above Texas Unlawful Assembly Statutes are unconstitutional, both on their face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States because:

1. They are vague, in that they fail to establish any ascertainable standard of guilt.
2. They are overbroad in that they encompass within their scope activity which is clearly protected by federal guarantees of free speech, assembly and petition.
3. They are susceptible of sweeping and improper application.

4. Article 439 abridges Plaintiffs' rights of free speech, assembly and petition in that it punishes the aiding of each other in any manner to deprive any person of any right or to disturb him in the enjoyment thereof, thus punishing concerted action to do things which are not unlawful.

D. Article 474 of the Penal Code of the State of Texas, known as the Disturbing The Peace Statute, provides:

Art. 474. 470, 334 Disturbing the peace

Whoever shall go into or near any public place, or into or near any private house, and shall use loud and vociferous, or obscene, vulgar or indecent language or swear or curse, or yell or shriek or expose his or her person to another person of the age of sixteen (16) years or over, or rudely display any pistol or deadly weapon, in a manner calculated to disturb the person or persons present at such place or house, shall be punished by a fine not exceeding Two Hundred Dollars (\$200). As amended Acts 1950, 51st Leg., 1st C.S., p. 50, ch. 10, § 1.

The Texas Disturbing The Peace Statute is unconstitutional, both on its face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States because:

1. It is vague, in that it fails to establish any ascertainable standard of guilt.

2. It is overbroad in that it encompasses within its scope activity which is clearly protected by federal guarantees of free speech, assembly and petition.

3. It is susceptible of sweeping and improper application.

E. Article 482 of the Texas Penal Code provides:

Art. 482. 1020, 599 Abusive language

Any person who shall in the presence or hearing of another curse or abuse such person, or use any violently abusive language to such person concerning him or any of his female relatives, under circumstances reasonably calculated to provoke a breach of the peace, shall be fined not more than one hundred dollars. Acts 1887, p. 13.

The Texas Abusive Language Statute is unconstitutional, both on its face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States because:

1. It is vague, in that it fails to establish any ascertainable standard of guilt.

2. It is overbroad in that it encompasses within its scope activity which is clearly protected by federal guarantees of free speech, assembly and petition.

3. It is susceptible of sweeping and improper application.

F. Article 784 of the Penal Code of the State of Texas provides:

Art. 784. [812] [480] [405] Obstructing public road, street, etc.

Whoever shall wilfully obstruct or injure or cause to be obstructed or injured in any manner whatsoever

any public road or highway or any street or alley in any town or city, or any public bridge or causeway, within this State, shall be fined not exceeding two hundred dollars. Acts 1860, p. 97; Acts 1913, p. 258.

The Texas Obstructing Public Road Statute is unconstitutional, both on its face and as applied, under the First and Fourteenth Amendments to the Constitution of the United States because:

1. It is vague, in that it fails to establish any ascertainable standard of guilt.
2. It is overbroad in that it encompasses within its scope activity which is clearly protected by federal guarantees of free speech, assembly and petition.
3. It is susceptible of sweeping and improper application.
9. Since on or about May 26, 1967, and continuing to the present, Defendants acting in their official capacities and under color of State statutes and other law have repeatedly deprived Plaintiffs of their right of free expression and speech granted by the First and Fourteenth Amendments of the United States Constitution by unlawfully threatening, intimidating, and coercing members of the press attempting to report the activities of said Plaintiffs and the activities of said Defendants for the purpose of preventing said members of the press from reporting Plaintiffs' activities and appeals and Plaintiffs' trials and tribulations at the hands of Defendants and their co-conspirators. Said suppression of press reporting respectively prevents Plaintiffs from exercising their rights of free speech and free expression.

10. The above-described acts and conduct of Defendants were and are in reckless and wanton disregard of the rights and welfare of the citizens whom Defendants have an obligation to protect.

11. Plaintiffs have at all times engaged, or sought to engage in peaceful and lawful exercise of their rights of free speech and assembly.

Plaintiffs desire to continue to exercise their rights, privileges and immunities, including the right to peacefully picket and advertise their lawful cause.

Defendants threaten to continue to deprive the Plaintiffs of their rights, privileges and immunities by continued arrests, assaults, harrassment and confinement, in general and by application of the complained of statutes above quoted.

WHEREFORE, Plaintiffs pray that a three-judge court be convened pursuant to 28 U.S.C., Sections 2281 and 2284 to hear this action, that this cause be expedited and heard at the earliest practicable date, and that this Court:

1. After hearing, issue a permanent injunction restraining the Defendants from enforcing against Plaintiffs and their class each of the above specified Statutes of the State of Texas; and a declaratory judgment declaring that each of the above mentioned Statutes is void on its face, null and void as violative of the Constitution of the United States and/or as applied to the conduct of the Plaintiffs and members of their class herein.

2. Issue a permanent injunction restraining the Defendants and all persons and public officials acting in concert

with them from the selective arrest and prosecution of Plaintiffs and members of their class for the purpose of chilling or discouraging them in the exercise of their constitutional rights, including the arrest and filing of charges on spurious and frivolous charges for such purposes.

3. Issue a permanent injunction restraining the Defendants and all public officials or private persons acting in concert with them from by any means, including orders, threats, arrests, confinement or physical assault, preventing Plaintiffs from peacefully and lawfully assembling, picketing and publicizing their labor controversy.

Respectfully submitted,

DIXIE & SCHULMAN
505 Scanlan Building
Houston, Texas 77002
Capitol 3-4444

By _____
Chris Dixie

By _____
Robert E. Hall

GEROME COHEN
1511 Twelfth Avenue
Delano, California

DORAN WILLIAMS
P. O. Box 54
Rio Grande City, Texas

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The foregoing Amended Complaint was served upon adverse counsel on this the 29th day of October, 1967, by depositing a copy thereof in the United States Mail, with postage affixed and properly addressed, as follows:

Mr. Frank R. Nye, Jr.
Attorney-at-Law
P. O. Box 737
Rio Grande City, Texas 78582

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Allo Crow
Lonny Zweiner and
Howard M. Fender,
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McAllen, Texas 78501

Chris Dixie

[fol.E]

CIVIL ACTION NO. 67-B-36

IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO, ET AL,

Plaintiffs

VS.

A. Y. ALLEE, ET AL,

Defendants

AMENDED ANSWER
(AS TO CERTAIN OF THE DEFENDANTS)

CRAWFORD C. MARTIN
Attorney General of Texas

R. L. LATTIMORE
Assistant Attorney General

ALLO CROW
Assistant Attorney General

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HOWARD M. FENDER
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ATTORNEYS FOR DEFENDANTS

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CIVIL ACTION NO. 67-B-36

IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO, ET AL,

Plaintiffs

vs.

A. Y. ALLEE, ET AL,

Defendants

AMENDED ANSWER
(AS TO CERTAIN OF THE DEFENDANTS)

COME NOW the following defendants in the above styled and numbered cause to-wit: A. Y. Allee, Jack Van Cleve, Jerome Preiss, T. H. Dawson, and S. H. Denson, hereinafter referred to as Defendant Rangers, appearing by and through the Attorney General of Texas.

I.

(a) Defendant Rangers admit that Plaintiff Medrano is a resident of Dallas County, Texas. Defendant Rangers admit that Plaintiffs Baker, Lopez, Padilla, Dimas and Rodriguez are residents of Starr County, Texas. Defendant Rangers neither admit nor deny that all plaintiffs are citizens of the United States. Defendant Rangers neither admit nor deny that Plaintiff United Farm Workers Organizing Committee, AFL-CIO, is a voluntary unincorporated labor organization affiliated with the AFL-CIO and require strict proof thereof. Defendant Rangers neither admit nor deny that Plaintiff Padilla is an officer in such alleged union.

(b) Defendant Rangers admit that they are employed by the State of Texas and that they reside in Dimmit County, Texas.

(c) Defendant Rangers make no pleading as to the status and residence of the other named defendants.

II.

Defendant Rangers specially deny that the Plaintiff United Farm Workers Organizing Committee, AFL-CIO, have any standing to sue the defendants for the reason that throughout the complaint there is an absolute failure to show that the representative parties named as plaintiffs will fairly and adequately protect the interests of the association and its members as is required by Rule 23.2 of the Federal Rules of Civil Procedure.

III.

(a) Defendant Rangers deny that this court has jurisdiction under 42 U.S.C.A. §1983, for the reason that there is no showing in the pleadings that any or all of the Defendant Rangers have under color of any statute, ordinance, regulation, custom or usage of the State of Texas subjected or caused to be subjected any citizen of the United States or person to the deprivation of any rights, privileges or immunities secured by the Constitution and laws of the United States of America.

(b) Defendant Rangers deny that this court has jurisdiction under 42 U.S.C.A. §1985, for the reason that there is no allegation or showing that any of the following things have been done.

1. No officer of the United States Government has been prevented from doing his duty.

2. No party or witness has been prevented from freely attending court.

3. None of the defendants have gone in disguise on the highways or premises of another for the purpose of denying equal protection of the laws or equal privileges and immunities, nor has anyone been prevented from voting or advocating the election of any person.

(c) Defendant Rangers deny that this court has jurisdiction under 28 U.S.C.A. §1343 for the following reasons:

1. No damages are sought for injury for any act coming under 42 U.S.C.A. §1985.

2. No damages are sought from any person for failing to prevent wrongs covered in 42 U.S.C.A. § 1985.

3. No redress is sought for the deprivation under color of any law of the State of Texas or statute, regulation, custom or usage thereunder of any Federal Constitutional right or right granted by Act of Congress.

4. No damages or equitable relief is sought under any Act of Congress providing for the protection of civil rights, including the right to vote.

(d) Defendant Rangers deny that they have conspired to deprive plaintiffs of their civil rights or that they have conspired for any purpose.

(e) Although Defendant Rangers deny that any cause of action has been presented for consideration of this court, Defendant Rangers admit that plaintiffs' pleadings entitle them to have whatever hearing they may deserve before a three-judge court.

IV.

(a) Defendant Rangers neither admit nor deny that the alleged union and various agricultural and farm workers have been engaged in various concerted activities for the purpose of protecting themselves in their personal work, personal labor, and personal service, and require strict proof thereof.

(b) Defendant Rangers neither admit nor deny that the officers and members of the alleged union and other persons sympathetic to their cause have sought by peaceful picketing and other lawful conduct to disseminate the

facts of working conditions in Starr County, Texas, and require strict proof thereof.

(c) Defendant Rangers neither admit nor deny that Eugene Nelson, William Chandler, Tony Orendein, Benjamin Rodriguez, Cathy Lynch, Elida Garcia, Librado de la Cruz and/or Reynaldo de la Cruz were Union agents or members at times material to this lawsuit, and require strict proof thereof.

V.

Defendant Rangers deny generally that they have conspired and acted together among themselves or with others or that they have acted individually under color of State statutes and other laws with the object of depriving plaintiffs and the class they allegedly represent of any rights, privileges and immunities protected by the laws and Constitution of the United States or of equal protection, privileges and immunities under the United States Constitution and laws, or that they have in any way injured plaintiffs or the members of the class plaintiffs allegedly represent.

(a) Defendant Rangers specifically deny that they have indulged in unlawful harassment, threats, searches and seizures.

(b) Defendant Rangers deny that they have indulged in unlawful and groundless mass and individual arrests, detention and confinement accompanied by complete disregard for procedural due process of law guaranteed by the United States Constitution.

(c) Defendant Rangers deny that they have indulged in physical assault and batteries which caused bodily injury to some of the plaintiffs.

VI.

Defendant Rangers generally deny that they have during the time indicated in the complaint subjected plaintiffs and members of their alleged class to deprivation of rights, privileges, and immunities secured by the Constitution and laws of the United States and specifically deny the individual allegations below.

(a) Defendant Rangers deny that they have unlawfully, without legal justification, repeatedly arrested, detained and confined plaintiffs and members of their class in order to defeat a fair right of free speech and assembly under the First and Fourteenth Amendments of the Constitution of the United States.

(b) Defendant Rangers deny that they have unlawfully arrested, detained and confined plaintiffs and members of their alleged class without according them procedural due process of law as required by the Fifth and Fourteenth Amendments.

(c) Defendant Rangers deny that they have unlawfully threatened, harassed, and coerced, and physically assaulted and battered plaintiffs and other members of their class, thereby preventing the exercise of their right of free speech and assembly under the First and Fourteenth Amendments.

VII.

(7.1) Defendant Rangers admit that at times material to this suit a certain newspaper known as "La Verdad" has been published and in some manner distributed in Rio Grande City. Defendant Rangers neither admit nor deny that La Verdad was published by private parties. Defendant Rangers neither admit nor deny that La Verdad attacked and criticized plaintiff Union, its leaders, programs and sympathizers. Defendant Rangers neither admit nor deny that this publication has been regularly and systematically distributed to the public in Rio Grande City through and from the office of the Sheriff of Starr County.

(7.2) Defendant Rangers neither admit nor deny that member Nelson was engaged in peaceful picketing at the Roma international bridge on or about June 2, 1966. Defendant Rangers neither admit nor deny that Raul Pena arrested Nelson and caused him to be incarcerated in the Starr County jail for four hours without charge. Defendant Rangers neither admit or deny that someone designated in Plaintiffs' Amended Complaint as "co-conspirator Nye" then sought to intimidate Nelson by interrogation.

(7.3) Defendant Rangers neither admit nor deny that on or about October 12, 1966, Union members were peacefully picketing on United States Highway 83 adjacent to Rancho Grande Farms, appealing to employees thereof to make common cause with the Union. Defendant Rangers neither admit nor deny that member Chandler was sitting in a parked car near the pickets. Defendant Rangers neither admit nor deny that Defendant Raul Pena arrived with several deputy sheriffs. Defendant Rangers neither admit nor deny that the deputies drove their car between

the pickets and the workers, disembarked, and began shouting to the employees of Rancho Grande Farms in Spanish. Defendant Rangers neither admit nor deny that member Chandler approached the deputies and asked why they were there, and thereupon arrested Chandler and charged him with the use of loud and vociferous language calculated to disturb the inhabitants of Highway 83 in violation of Texas Penal Code, Article 474.

(7.4.) Defendant Rangers neither admit nor deny that on or about October 24, 1966, Union's President Arredondo was among a group of persons who had been arrested at the Roma international bridge and taken under arrest to the office of the Sheriff of Starr County in Rio Grande City. Defendant Rangers neither admit nor deny that Arredondo joined with others in chanting "viva la huelga" (long live the strike). Defendant Rangers neither admit nor deny that Deputy Sheriff Ellert physically struck Arredondo and threatened him with a loaded and cocked pistol and told Arredondo not to utter those words in the courthouse again.

(7.5) Defendant Rangers neither admit nor deny that on or about November 3, 1966, members of the Union engaged in picketing against the packing sheds of La Casita Farms situated near Highway 83 near Rio Grande City or that on said occasion said picketing took place on or across the railroad tracks of the Missouri Pacific Railroad. In the alternative Defendant Rangers plead that if there was any such picketing of the Missouri Pacific Railroad, peaceful or otherwise, that such constituted illegal picketing activity. Defendant Rangers neither admit nor deny that Defendant Roberto C. Pena filed complaint against Irene Chandler, Stephen Lee Holton, Reynaldo de la Cruz, Baldemar Diaz, Tony Orendain, Domingo Arredondo, Ismael Dias, Agustin

Serratos, Magdaleno Dimas, and Guillermo de la Cruz, charging them with violation of Article 5154f, the Texas Secondary Picketing Statute. Defendant Rangers deny that there is any such person as co-conspirator Nye. Defendant Rangers neither admit nor deny that County Attorney Nye filed an information against each of the persons heretofore named in this paragraph. Defendant Rangers admit that any warrants of arrest issued on November 9, 1966, pursuant to the aforesaid complaints and information (if any such) as were delivered to them were executed by the Defendant Rangers. Defendant Rangers deny that Article 5154f had been declared unconstitutional by the Supreme Court of Texas. Defendant Rangers further specially plead that if other defendants who are in possession of the necessary information have admitted that the complaints and/or informations referred to above were filed by the persons alleged to have filed them (and since such matters appear of record) Defendant Rangers will then admit the same.

(7.6) Defendant Rangers neither admit nor deny that Zoila Ozuna was standing in front of a stopped bus near the entrance to La Casita Farms on November 7, 1966, or that Defendant Jim Rochester boarded the said bus and angrily started it in motion. Defendant Rangers neither admit nor deny that said bus struck Zoila Ozuna. Defendant Rangers admit that pursuant to some verbal complaint of an incident similar to that related heretofore that an investigation was undertaken by the Texas Rangers but that they did not conclude to file any charges on account of said incident. Defendant Rangers deny that this was in sharp contrast to any zeal they may have displayed in enforcing the law where the Union and its sympathizers had indulged in some violation of the law in their presence.

(7.7) Defendant Rangers neither admit nor deny that on or about November 28, 1966, a rally was held on the grounds of the Starr County Courthouse and that at that time Defendant Raul Pena and other deputy sheriffs under his direction removed banners and flags that may or may not have been displayed on the courthouse property.

(7.8) Defendant Rangers neither admit nor deny that on or about December 18, 1966, a caravan of Union supporters bearing food and clothing arrived in Rio Grande City. Defendant Rangers neither admit nor deny that Plaintiff Dimas undertook to direct traffic at the intersection of U. S. Highway 83 and Farm Road 775. Defendant Rangers neither admit nor deny that on this occasion, Defendant Roberto Pena struck Dimas with his car.

(7.9) Defendant Rangers neither admit nor deny that on or about December 28, 1966, members of the Union were picketing peacefully near the main entrance to La Casita Farms. Defendant Rangers neither admit nor deny that Defendant Roberto Pena arrested Librado de la Cruz and charged him with assault on one Manuel Balli. Defendant Rangers again deny that there is any such person as co-conspirator Nye. Defendant Rangers neither admit nor deny that de la Cruz was charged with attempting to prevent Balli from engaging in his vocation. Defendant Rangers neither admit nor deny that Roberto Pena arrested Pedro Dimas, Maximiliano Perez, Eva Medoza, and Matilde A. Garza and charged them with obstructing a public road in violation of Texas Penal Code, Article 784. Defendant Rangers neither admit nor deny that Roberto Pena arrested Pedro Dimas for interfering with the arrest of de la Cruz. Defendant Rangers neither admit nor deny that Roberto Pena arrested William L.

Chandler, Jr. for using loud and vociferous language in violation of Penal Code, Article 474. Defendant Rangers neither admit nor deny that the above described arrest and charges were a spurious, wholesale dispersal of peaceful picketing.

(7.10) Defendant Rangers neither admit nor deny that on or about December 29, 1966, Union members Reynaldo de la Cruz and Pedro Dimas were in the offices of the Union in Rio Grande City wearing small tin badges of the type found as prizes in boxes of "cracker jacks." Defendant Rangers neither admit nor deny that Defendant Raul Pena and another deputy sheriff arrested them and caused them to be jailed, charging them with impersonating an officer in violation of Texas Penal Code, Article 429.

(7.11) Defendant Rangers neither admit nor deny that on or about January 26, 1967, five members of the Union, to-wit: Benito Rodriguez, Librado de la Cruz, Reynaldo de la Cruz, Benjamin R. Luna, Jr. and Benjamin R. Luna, Sr. were peacefully gathered on the banks of the Rio Grande River and were engaged in peaceful persuasion directed toward employees of the Trophy Farms to make common cause with the Union. Defendant Rangers neither admit nor deny that Defendant Roberto Pena and other deputies arrested all of them and charged them with use of abusive language in violation of Penal Code, Article 482. Defendant Rangers neither admit nor deny that the officers confiscated the loud speaker these people had with them.

(7.12) Defendant Rangers neither admit nor deny that on or about January 26, 1967, about 7:00 p.m., Plaintiff Padilla and Union member Rev. James Drake engaged in prayer outside the Starr County Courthouse on the

Rangers neither admit nor premises thereof. Defendant caused the said Drake and deny that Defendant Raul Penal assembly in violation of Padilla to be arrested for unlawf-

Penal Code, Articles 439 and 440. Defendant neither admit nor deny that

(7.13) Defendant Rangers neither admit nor deny that other Union members, member Orendein and three who were Roman Catholic together with five sympathizers gathered on certain private property owned by one Thomas Bazan with the permission of the said Bazan, on or about February 1, 1967, and that they went to the said private property by traversing a road between that property and La Casita Farms, which road is customarily used by the public as a public access road to the Bazan property. Defendant neither admit nor deny that after arrival the group engaged in peacefully appealing to workers in the Casita fields to make common cause with the Union. Defendant neither admit nor deny that Defendant Roberto Pena and Defendant Jim Rochester, acting together, caused the arrest of all of said persons and charged them with disturbing the peace in violation of Texas Penal Code Article 474.

(7.14) Defendant Rangers neither admit nor deny that on February 1, 1967, Plaintiff Rodriguez was walking along the road between certain property owned by Thomas Bazan and the property of La Casita Farms. Defendant Rangers neither admit nor deny that Defendant James Rochester pursued the said Rodriguez and fired a pistol at Rodriguez. Defendant Rangers neither admit nor deny that Defendant Rochester jailed Rodriguez and caused him to be charged with disturbing the peace in violation of Texas Penal Code, Article 474.

(7.15) Defendant Rangers neither admit nor deny any of the actions alleged to have taken place on April 13,

1967, with regard to any election held with the National Labor Relations Board.

(7.16) Defendant Rangers deny that on or about May 11, 1967, Union member Ismael Diaz and others were engaged in peaceful picketing at the Roma international bridge. Defendant Rangers neither admit nor deny the reason these people entered a car or that they were going to the international bridge at Rio Grande City. Defendant Rangers admit that the international bridge at Rio Grande City would be open to traffic at 8:00 a.m. on the date in question. Defendant Allee admits that he arrested Diaz and charged him with driving without a license. Defendant Allee denies that his purpose in arresting Diaz was to interfere with any prospective lawful activity to take place at Rio Grande City. Defendant Rangers deny that Union members and sympathizers were peacefully picketing on a public road without blocking traffic on May 11, 1967. Defendant Van Cleve denies that he physically pushed Plaintiff Lopez and others except insofar as physical contact may have been necessitated pursuant to his duties in preserving the peace. Defendant Allee denies that he told Union members they should return to work and abandon their strike but pleads affirmatively that he told the people with whom he was confronted that they should go back to work and quit disturbing the peace. Defendant Rangers neither admit nor deny that Plaintiff Lopez attempted to file charges against Defendant Van Cleve, but admits that no such charges have been filed.

(7.17) Defendant Rangers neither admit nor deny that on or about May 12, 1967, someone named Nelson went to the office of the Sheriff of Starr County to lodge a protest with appropriate enforcement officials against what he believed was partial conduct by the Defendant

Rangers near La Casita Farms. Defendant Rangers neither admit nor deny that some conversation took place between the said Nelson and Constable Manuel Benevides. Defendant Rangers admit that the said Benevides was at that time the elected constable in Starr County and they neither admit nor deny that he was also an employee of La Casita Farms at that time. Defendant Rangers neither admit nor deny that any such conversation between Nelson and Benevides concerned United States Senators or red-faced Rangers. Defendant Rangers admit that a charge was filed charging Nelson with seriously threatening the life of four named Texas Rangers or other unnamed Rangers. Defendant Rangers admit that a warrant was delivered to them for execution and that they arrested the said Nelson pursuant to said warrant. Defendant Rangers deny that they, or any of them, threatened and abused Nelson while the said Nelson was under arrest. Defendant Rangers deny that they knew that the charge against Nelson was a ruse. Defendant Rangers neither admit nor deny that Defendant Raul Pena and County Attorney Nye refused to allow Nelson to make bond or that they refused to accept a surety bond executed by one Joseph Guerra, or that they knew of any of the allegations concerning real property tax receipts.

(7.18) Defendant Rangers deny that on or about May 18, 1967, Plaintiffs' sympathizers, Reyes Alaniz, Pedro Mendez, Gustavo Diaz, Mario Vera, Guillermo de la Cruz, Donato Bayan, Rafael Trevino, Ramona Olivarez, Anita Rosa, Maria Guadalupe Saenz, Viviana Segonia, Elodia Valadez, Reynaldo de la Cruz, Severo Benevidez, Benito Rodriguez, Librado de la Cruz, Octavio de la Cruz, Pedro Lopez, Victor Lopez, Magdaleno Dimas, and Horacio P. Carillo were peacefully assembled near the entrance to Trophy Farms on U. S. Highway 83 for the purpose of

asking workers for such farm to make common cause with the Union. Defendant Rangers admit that they arrested the above and charged them with mass picketing in violation of Article 5154d, Revised Civil Statutes of Texas.

(7.19) Defendant Rangers admit that on or about May 25, 1967, Plaintiffs Padilla, Lopez and Union member Eugene Nelson were crossing a public street in Rio Grande City. Defendant Allee denies that he ordered Nelson into his car and later gave the same order to Padilla and Lopez. Defendant Allee affirmatively alleges that he requested Nelson, Padilla and Lopez to join him. Defendant Allee neither admits nor denies that two persons who approached him were representatives of an investigating committee of the United States Civil Rights Commission, but admits that two persons did approach his car and that he explained to them that he wanted the three men to help him investigate a report that someone was creating a disturbance under a railroad bridge. Defendant Allee then requested the men to follow him in their own car. Defendant Allee denies that he departed at such a high speed as to make it impossible for the three men to follow him but admits that they did not follow him.

(7.20) Defendant Rangers admit that on or about May 26, 1967, Octavis de la Cruz, Irene Chandler, Daria A. Vera, Mario Vera, Benjamin R. Lema, Librado de la Cruz, Cathy Lynch, F. F. Medrano, Kathy Baker, and Magdaleno Dimas were near the intersection of the Missouri Pacific Railroad tracks and Conway Street in Mission, Hidalgo County, Texas. Defendant Rangers deny that three or four persons engaged in peaceful picketing at that intersection. Defendant Rangers admit that all were arrested and charged with violation of Article 5154f, Revised Civil Statutes of Texas and bond set at Five Hundred Dollars

(\$500.00). Defendant Rangers deny that said arrests were accompanied by blows, pushes, shoves and menacing and threatening language, but that any force used was only such force as was reasonably necessary to effect the arrests and prevent a breach of the peace.

(7.21) Defendant Rangers admit that Union member Arredondo and two other people were walking along a road on the west periphery of La Casita Farms. Defendant Rangers admit that they were carrying picket signs and talking through a loud speaker to people working in the fields. Defendant Rangers neither admit nor deny what Defendant Rochester may have done in driving his pickup truck about his own property and playing a radio through his amplifier. Pursuant to a call, Defendant Allee arrived on the scene, shook hands with Jim Rochester, and arrested thirteen Union members and charged them with mass picketing in violation of Article 5154d, Revised Civil Statutes of Texas.

(7.22) Defendant Rangers admit that on or about June 1, 1967, Magdaleno Dimas and Benjamin Rodriguez were in a house in Rio Grande City. Defendant Rangers Allee and Dawson arrived at the house and observed Plaintiff Dimas (a known ex-convict) walking about armed. Pursuant to instructions from Justice of the Peace B. S. Lopez in the form of a warrant, Defendant Rangers Allee and Dawson arrested Dimas and Rodriguez. Defendant Rangers aver that the execution of the warrant required force for the entry of the house because Dimas and Rodriguez did not respond to lawful verbal instructions to surrender. Defendant Rangers further aver that such force as was used in arresting Dimas was only that force which appeared reasonably necessary to them at the time to effectuate said arrest, taking into account the character of the persons to

be arrested and the type of resistance they offered to said arrest. Defendant Rangers denied that there was any striking or injuring by fists or feet. Defendant Rangers admit that Dimas and Rodriguez were charged with disturbing the peace in violation of Article 474, Texas Penal Code.

(7.23) Defendant Rangers admit that on or about June 1, 1967, Cathy Lynch, Elida Garcia, Librado de la Cruz and Reynaldo de la Cruz were in Mission, Hidalgo County, Texas, near the intersection of the Missouri Pacific Railroad tracks and Conway street. Defendant Rangers deny that plaintiffs had peaceably assembled at said location for the purpose of peacefully advertising the dispute between plaintiffs and the growers in Rio Grande City. Defendant Rangers admit that they arrested all four plaintiffs and charged them with violation of Article 5154f, Revised Civil Statutes of Texas.

In all of the sub-paragraphs above forming full paragraph VII, Defendant Rangers have neither admitted nor denied the filing of several complaints and the making of several arrests because of lack of knowledge thereof. Wherever such arrests or complaints are admitted by other defendants in this lawsuit and appear of record in any of the county courthouses in any of the counties involved in this lawsuit, Defendant Rangers will admit such arrests and/or complaints but without admitting any of the surrounding circumstances which plaintiffs may have alleged in their complaint.

VIII.

(a) Defendant Rangers deny that they have used certain statutes of the State of Texas for the purpose of jailing,

molesting, interfering with and frustrating plaintiffs in the exercise of their constitutional rights.

(b) Defendant Rangers deny that they have many times publicly announced that they will continue to make arrests, charges and prosecutions under the said statutes except insofar as they have frequently stated that they will continue to carry out their duties in law enforcement and that if such duties included the making of arrests and the filing of charges that they would not hesitate to do so. Defendant Rangers deny that such announcements of intention to carry out fair and impartial law enforcement can be calculated to chill the willingness of people to exercise their First Amendment rights of free speech, assembly, association and petition for redress of grievances.

(c) In addition to denying the facial unconstitutionality of the statutes in question in this lawsuit Defendant Rangers further deny that they have engaged in selective enforcement of said statutes except insofar as such enforcement is selective in that those who make common cause with plaintiffs have selected these statutes as the ones which they will violate.

(d) Defendant Rangers deny that they have utilized any statutes for the purpose of arrest and prosecution when they knew there was no evidence to support a conviction. Defendant Rangers aver that any fear and danger of arrest and prospect of interminable court litigation can only be charged to those who intend to willfully violate the law and thereby force Defendant Rangers and others to arrest them.

IX.

Defendant Rangers deny that they have purposefully entered into a scheme or plan of concerted and joint action with other persons to subject plaintiffs to the deprivation of their rights, privileges and immunities secured to them by the Constitution and the laws of the United States.

(a) Defendant Rangers deny that Article 5154d of the Revised Civil Statutes of Texas is unconstitutional for any of the reasons set forth by plaintiffs.

(b) Defendant Rangers deny that Article 5154f of the Revised Civil Statutes of Texas is unconstitutional for any of the reasons set forth by plaintiffs.

(c) Defendant Rangers deny that Articles 439 and 449 of the Penal Code of the State of Texas are unconstitutional for any of the reasons set forth by plaintiffs.

(d) Defendant Rangers deny that Article 474 of the Penal Code of the State of Texas is unconstitutional for any of the reasons set forth by plaintiffs.

(e) Defendant Rangers deny that Article 482 of the Texas Penal Code is unconstitutional for any of the reasons set forth by plaintiffs.

(f) Defendant Rangers deny that Article 784 of the Penal Code of the State of Texas is unconstitutional for any of the reasons set forth by plaintiffs.

X.

Defendant Rangers deny that they have denied plaintiffs of their right of free expression and speech granted by the First and Fourteenth Amendments of the United States Constitution. Defendant Rangers deny that they have unlawfully threatened, intimidated and coerced members of the press, who were attempting to report the activities of the plaintiffs and the defendants. Defendant Rangers deny that they have acted with the purpose of preventing the members of the press from reporting things that they observed.

XI.

Defendant Rangers deny that they have indulged in any acts or conducts in reckless and wanton disregard of the rights and welfare of any citizens.

XII.

(a) Defendant Rangers deny that plaintiffs have at all times engaged, or sought to engage, in peaceful and lawful exercise of their right to free speech and assembly.

(b) Defendant Rangers have no way of knowing whether or not plaintiffs desire to continue to exercise their rights, privileges, and immunities, including the right to peacefully picket and advertise their lawful cause.

(c) Defendant Rangers deny that they threatened to continue to deprive the plaintiffs of any rights, privileges and immunities by any means.

WHEREFORE, PREMISES CONSIDERED, Defendant Rangers pray the court that plaintiffs take nothing by their suit, that said cause of action be dismissed, and that plaintiffs be sent hence without day, and of this they put themselves upon the country.

Respectfully submitted,

**CRAWFORD C. MARTIN
Attorney General of Texas**

**R. L. LATTIMORE
Assistant Attorney General**

**ALLO CROW
Assistant Attorney General**

**LONNY ZWIENER
Assistant Attorney General**

**GILBERT J. PENA
Assistant Attorney General**

**HOWARD M. FENDER
Assistant Attorney General**

**ATTORNEYS FOR DEFENDANTS
BOX "R" CAPITOL STATION
AUSTIN, TEXAS 78711**

CERTIFICATE OF SERVICE

I, Howard M. Fender, Assistant Attorney General of Texas, do hereby certify that a copy of the above and foregoing Amended Answer (As to Certain of the Defendants) has been deposited in the United States Mail, postage prepaid, to Dixie and Schulman, Suite 505 Scanlan Building, Main at Preston, Houston, Texas 77002; Jerome Cohen, 1511 12th Avenue, Delano California (via air mail); and, Doran Williams, P. O. Box 54, Rio Grande City, Texas, Attorneys for Plaintiffs, this the 7th day of February, 1968.

HOWARD M. FENDER

[fol.1]

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO, ET AL]

VS.]

CIVIL ACTION NO. 67-B-36

A. Y. ALLEE, ET AL]

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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GEORGE DIXIE

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COUNSEL FOR DEFENDANTS:

Attorney General of Texas
BY: MR. HAWTHORNE PHILLIPS, MR. ALLO B. CROW,
and MR. GILBERT PENA

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Courthouse, Rio Grande City, Texas

Mr. Luther E. Jones, Jr.
338 Laurel Drive, Corpus Christi, Texas

Messrs. Atlas, Schwarz, Gurwitz & Bland
P. O. Drawer 1118, McAllen, Texas
BY: MR. GARY GURWITZ

BE IT REMEMBERED that upon the the trial of the above styled cause, begun on the 11th day of June, A.D. 1968, before His Honors John R. Brown, Reynaldo G. Garza and Woodrow Seals, sitting as a Special Three-Judge Court, the following proceedings were had:

[fols.2-11] * * *

[fol.12] MR. DIXIE:

The second statute is the Texas Mass Picketing Statute. The Texas Mass Picketing Statute provides that any time more than two persons congregate within the presence of each other as pickets that they violate that statute. Pickets are broadly defined to include everybody in the vicinity who is there to observe or to induce or take party in any way. We claim that that statute is unconstitutional in holding that in every situation two and only two every 50 feet is all that will be allowed. Now there is one point here that I want to underscore. In my pretrial memorandum I brought out that this statute is also discriminatory. The claim of discrimination arises from the fact that if a labor organization places those pickets out there on its behalf, then the statute is violated, but if a group of people go out there and do exactly the same thing but are not there on behalf of any organization, the statute is not violated. There is no acceptable classification distinction which will support that particular division. In Short, if a group of housewives or a group of Negroes get out and picket about prices or [fol.13] race discrimination, they are innocent. If a labor organization does it, it is guilty. And now I underscore that point because my pleadings are less than ideal to raise that point but I did raise it in my memoranda which has been before the Court for more than a month and in the hands of other Counsel.

* * * * *

[fols.14-21] * * *

[fol.22] * * * * *

The median family income for a Starr County family was \$1700 a year compared to the median family income for Texas as a whole which was \$4,884. a year. Of the 3,680 families in Starr County, 1,005 had an income of less than a thousand dollars a year.

JUDGE GARZA: How many families in Starr County?

MR. DIXIE: 3,680 families.

2,484 families, about two-thirds of the number of family units, makes less than \$3,000. The median educational attainment of Starr County residents of more than 25 years old was 4.9 years. The median for Texas as a whole is 10.9 years in school. About 35% of all housing in Starr County is classified as either deteriorating or delapidated. More than one-half of the houses have neither bathtub nor shower.

JUDGE BROWN: Radios and television?

MR. DIXIE: More than half had no flush [fol.23] toilets. More than half have no piped water supply, either inside or outside the house.

* * * * *

[fol.24] * * * * *

MR. PHILLIPS: We would stipulate that that is low income County and we grant that they have every right under the sun to organize those workers if they desire.

* * * * *

[fols.25-77] * * *

[fol.78] * * * * *

MR. DIXIE: Now then on the complaint for abusive language this occasion, 7.11E, shows Federico Pena against Librado language that was filed by complaint filed by Augustin Lopez de la Cruz. 7.11F shows a Cruz. The next two is charges Lopez against Reynaldo de la against Benito Rodriguez, alleged filed by Roberto Pena, both Federico Pena in one case alleging abusive language toward another case. and Augustin Lopez, Jr., in
* * * * *

[fol.79] * * * * *

(Dixie's summary of Raul Pena's testimony).

. . . that he did file on then na's testimony).
that this was the grounds—that for unlawful assembly, and disturbing the night custodian environment. It gives the name that is that [fol.80] he was in the last answer on the seaman's right to a peaceful "The conduct of theirs which of the night custodian. And was their refusal to leave whecond page he testifies that, others complied with the request caused me to arrest them
* * * * * n I asked them to do so. The
est that they leave."

[fols.81-82] * * *

[fol.83] * * * * *

(Dixie's summary of Roberto Pena's testimony).

. . . . In his testimony about o Pena's testimony).
Number 29 that he saw them—
were on La Casita rather than
at this Roberto Pena says in
—when he first saw them they
—7 on Bazan property, and the

reason he arrested them is because they were using loud and vociferous language directed towards—

JUDGE BROWN: The priests were using this kind of language? He ties this in with the [fol.84] priests now?

MR. DIXIE: Yes, he did. They were using loud and vociferous language directed towards 50 or 60 workers working in the La Casita field. Such language consisting of statements in Spanish to the effect that the workers were slaves, that they should quit working and that if they did not quit working the Union would force them to quit.

[fols.85-121] * * *

[fol.122] * * * * *

TESTIMONY of EUGENE NELSON by MR. DIXIE:

Q State what they said to you.

Q Well, for one thing the driver, whose name I don't recall, turned around and pointed his finger in my face and said, "You have lived a charming life in Starr County long enough." And Jack Van Cleve also turned around and also pointed his finger in my face and said, "You better not go too near the river or the Texas Rangers will see to it that you end up floating down the Rio Grande."

[fols.123-134] * * *

[fol.135]

MR. DIXIE: . . . As to paragraph 7T of the complaint, the parties stipulate that on and immediately following May 18, 1967, Trophy Farms Number 2 and Number 3

farmed about 1,011 acres of land and employed about 200 employees. Highway 83 immediately to the north of Trophy Farms runs east and west. Its a two-lane highway with paved strips on each side for about two-thirds of a lane. The south shoulder of the road which is unpaved, graveled, in part is approximately 42 feet in width. There's a post at the east and another at the west side of the entrances of Trophy Farms, to show Plaintiffs' Exhibit 7T(A), which are marked A and B respectively. Actually 7T has escaped us somewhere. But those two telephone posts are the ones that I showed the Court on one side and the other of the entrance. The entrance to Trophy Farms is a two-pronged roads which two-prongs leaves a grassy island in the middle, as shown in 7.18 Exhibit. These prongs converge into a single road about 100 feet to the south of the shoulder of the road.

[fols.136-148] * * *

[fol.149] * * * * *

MR. DIXIE:

The defendant Allee testified pertaining to this that on or about May 31 he did see Arredondo and a group of sympathizers on the road on the west periphery of La Casita, that he did see Jim Rochester and he did arrest Arredondo and the persons with him, that he did not file the charges, that either [fol.150] Jim or Ray Rochester filed the charges. And as to the reason he arrested them, he answered 108 that they were gathered together in a group and picketing in a manner forbidden by Article 5154d. "Since they did this in my sight and presence, I arrested them without a warrant."

[fols.151-163] * * *

[fol.164] * * * * *

MR. DIXIE: Let me restate it. Jim Drake and Gilbert Padilla were arrested and charged with unlawful assembly on account of the activities of theirs on the southside of the Starr County courthouse. This stipulation says that on the same southside of the Starr County courthouse in August of 1966 there were two public dances held. Now we further stipulate that on the northside of the courthouse since these events took place there have been more dances held. We further stipulate that for many years past on the northside of the courthouse but at some distance away the authorities have permitted the political parties to erect tents for the purpose of soliciting support from voters who come to vote. That those tents stay up there, I suppose, on election days.

* * * * *

[fol.165] * * *

[fol.166] * * * * *

MR. DIXIE: Well, right up here there is stairs leading up to the lobby of the courthouse and my information was that the orchestra sat in the stairs and that the people danced around here. Is that correct?

[fol.167]

MR. NYE: I believe that's right, yes sir, because the stairs are rather steep and there's eight or ten steps, something like that.

* * * * *

[fols.168-185] * * *

[fol.186] * * * * *

TESTIMONY of ESTHER GUEVARA KRUEGER By MR. DIXIE:

Q All right. When you got to the Justice Court were you taken before the Justice of the Peace?

A Yes sir.

Q Did he tell you what you were charged with?

A Yes sir. He said we were being charged with unlawful assembly.

* * * * *

[fols.187-201] * * *

[fol.202] * * * * *

TESTIMONY of EDGAR ALLEN KRUEGER By MR. DIXIE:

Q Were you told what you were charged with?

A Yes sir.

Q What were you told?

A That we were charged with unlawful assembly.

Q And your bond was put up by the Church?

A Indirectly. By a member of the Church. As a matter of fact, the president of the Texas Council of Churches.

Q How much was your bond?

A \$500 per person for a number of persons.

Q The president of your church put up that \$500 cash bond for all of the arrestees that night?

A Yes sir, as I understand it that's true.

Q Now then, I'm going to get away from that date and come back to a much earlier period of time. On the morning of May 11th, 1967, were you at the Roma Bridge in the company of other Union members?

A Yes sir.

Q What were they doing?

[fol.203]

A They were holding up a large flag at that time and also on the U. S. side of the border they were watching to see if any of the green carders were going to come across the river.

Q Were there any green carders coming across?

A None that I observed.

Q Was there any traffic at all?

A No, it seemed to be a standstill.

Q Did you receive any information that there was a picket line or a picket flag on the Mexican side of the border that particular morning?

A Yes sir, yes sir.

Q Now then, it has been established here that a group along with Ismael Diaz were at that bridge and that they left there headed for the Camargo Bridge that morning. Were you in the car that day?

A Yes sir.

Q Now then, were you stopped by a Ranger?

A Yes sir.

Q Before you were stopped by a Ranger state whether or not your car was speeding or violating any other traffic law as far as you knew?

A No sir. It was an older car. About a '59 Ford, I believe.

[fols.204-255] ***

[fol.256] *****

DOMINGO ARREDONDO,
having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. DIXIE:

Q Your full name is Domingo Arredondo?

A Yes sir.

JUDGE BROWN: Were you sworn?

Q BY MR. DIXIE: Have you been sworn?

A Yes sir.

Q How old a man are you?

A 32.

[fol.257]

Q How much?

A 32.

Q 32. Are you the president of the Farm Workers Union in Rio Grande City?

A Yes sir.

[fols.258-264] ***

[fol.265] *****

A No, from the heat. I'm sorry. From the heat. And one lady or one women and another man and me kept going in front of all the rest of our peoples or our pickets and the people who had pulled their cars under the shade of the tree and they put their signs inside the cars and sat inside the cars themselves, too, except this boy Moreno, I think is his last name, and Cathy Lynch and I, we were walking along the road. And I think it is Moreno, if I recall his name—he was talking to the workers and Cathy Lynch was following him quite a good distance away from him, and then I was so far from Cathy Lynch behind, I saw Mr. Ray Rochester's car came inside the La Casita Farms property, came along where we was walking, and then he stop between Moreno and me inside the property of La Casita Farms, and at that time about two Texas Rangers'

cars drove in there, and I believe, if I recall, two Starr County officers, deputy sheriff cars, came in. Captain A. Y. Allee and a Sergeant drove on the County road just beside us and then Captain A. Y. Allee got up from his car and also the Sergeant and shook hands with Mr. Rochester, and at that time Mr. Rochester [fol.266] pull out of La Casita Farms property and on the County road and took off and Mr. Rochester put Mr. Moreno in his car—

JUDGE GARZA: Rochester?

A No, Captain A. Y. Allee. He put—

Q BY MR. DIXIE: Not Rochester, Captain A. Y. Allee?

A No, He put—Allee—he put him under arrest. And we got in the cars and as we were coming out the County road the Sergeant asked how about these only people sittin around the car and under the shade, so Captain Allee said, “Well, put them under arrest for mass picketing.” While they was sitting inside and around the cars.

Q How far away from you were those cars?

A Oh, well, it seems to me like they were pretty close to 200 or 250 feet away from us, if I recall.

Q Were they on the road?

A On the County road, yes, under a tree.

Q Under a tree?

A Yes sir.

Q By the side of the County road?

A Yes sir.

Q And they weren't doing anything at that time except sitting around the cars?

A Yes sir.

[fols.267-272] * * *

[fol.273] * * * * *

CROSS EXAMINATION

BY MR. PHILLIPS:

Q When did you first join the Union?

A Oh, I don't recall exactly but it was in May, 1966. It must have been on the 28th or something like that.

Q You were with it from the time the strike first started?

A Yes sir, the strike took place on June 1st, 1966.

Q And you continued being in strike until June '67 roughly?

A I don't recall exactly when we received those complaints and plaintiffs and they start making us run out of money to bail people out of jail, so I'm sorry I can't tell you, not right now. Injunctions from farmers, so we couldn't get anywhere or make any more picket lines.

[fol.274]

Q Now you continued, though, up until that time?

A Yes sir, continued—we had the injunctions—

Q Up until the injunction in '67?

A Yes.

Q Now how many times have you been arrested?

A Oh, probably—ever since we started?

A Yes.

A Oh, from anything around three to five times, I believe.

Q Three to five times?

A Yes sir.

Q Now how many times have you been out picketing?

A How many times?

Q Yes.

Q Well, as long as we were not in jail we were always picketing.

Q That was everyday?

A Beg pardon me?

Q That was everyday?

A Like I said, when we were not in jail we would go out picketing.

Q But you were arrested three to five times?

A Maybe.

Q Now on October 24th I believe is when it was alleged that you yelled viva la huelga at the [fol.275] courthouse?

A That's correct.

Q Now you were under arrest at that time?

A Yes sir.

Q Why had you been arrested?

A That's when we had an incident on the bridge, International Bridge in Roma, Texas.

Q What were you doing on the bridge?

A Well, we were demonstrating on the bridge.

Q Were you blocking the bridge?

A Not exactly. But right after they drag Eugene Nelson we just lay on the bridge or sit on the bridge.

Q You laid down or sat on the bridge?

A Sit on the bridge, yes sir.

Q And you were arrested for lying or sitting on the bridge?

A Obstructing a public road or bridge, whichever they want to call it.

Q Who arrested you?

A Mr. Frank Randall Nye went along with the deputy sheriff's of Starr County and he start pointing all of us under arrest.

Q Now, did you—

JUDGE GARZA: Were you sitting on the [fol.276] bridge at the time in the middle of the bridge?

A When they arrived, not exactly. We were standing on the bridge.

JUDGE GARZA: But in the middle of the bridge?

A We were in a line.

JUDGE GARZA: In other words, if a car tried to get across the bridge it couldn't have?

A No sir.

JUDGE GARZA: Without running over you?

A Yes.

JUDGE BROWN: When did you change from just standing around to putting your bodies down on the road?

A After they put Eugene Nelson—they drag him to the car. Put him under arrest and he sit down, then they drag him to the car handcuffed.

JUDGE BROWN: What did they say when they took Mr. Nelson, if anything? Did they say anything, the officers?

A Such what? Excuse me.

JUDGE BROWN: Well, I just asked did they say anything? What did they say you were [fol.277] doing is what we are trying to get at. Did you hear what the officers said Mr. Nelson was doing to cause him to be arrested?

A Blocking bridge, obstructing bridge.

JUDGE GARZA: Blocking bridge.

Q BY MR. PHILLIPS: Then did you all sit down?

A Yes sir.

Q And did they tell you to move? Did the officers tell you to move?

A They put us under arrest. Right after we sat down they put us under arrest.

Q Now then, isn't it true that they had to pick some of you up and carry you, that you wouldn't walk?

A I don't think they pick anybody. They drag them just like animals.

Q Did they give you opportunity to walk?

A What?

Q Did they give you the opportunity?

A Well, no, the way they treat Nelson we decided we wouldn't move. The way they treated our leader.

Q You decided you wouldn't move?

A No sir.

JUDGE GARZA: The question was did they ask you to get up?

[fol.278]

A They put us under arrest and said come on, come on, and they kept on—they were trying to handcuff all of us.

JUDGE BROWN: Trying to do what?

JUDGE GARZA: Handcuff.

A Handcuff.

Q BY MR. PHILLIPS: Were you trying to keep them from handcuffing you?

A Yes sir.

JUDGE BROWN: At this time were there any people in a bus or truck who were workers who might be coming across the bridge to go to work?

A There were several cars, different persons, workers, and I don't know. Maybe just people who were coming across the bridge.

JUDGE GARZA: Shoppers?

A Shop, yes sir.

Q BY MR. PHILLIPS: Now, this was several months after the strike began?

A Well, the strike took place on June 1st.

Q This was in October?

A Yes.

Q So up until that period of time how many times had you been arrested? Was that your first arrest?

[fol.279]

A Wait a minute, let me refresh my memory again. I believe that was my first arrest. I'm not pretty sure.

Q Now how many occasions did Reverend Krueger go out with you when you were picketing?

A Not exactly with me, sir.

Q What?

A Not exactly with me.

Q Well, how many times did you see him?

A Well, I couldn't tell you exactly how many times because he would come by maybe two or three days in the week, maybe less or maybe sometimes he wouldn't come around.

Q But did he come around fairly frequently?

A Beg pardon me?

Q Did he come around pretty often?

A Sir?

Q Did he come around pretty often?

A Well, I guess when he was around he would come over to Rio Grande City often.

Q Did he attend your meetings?

A On Friday night. That's when we had our meetings.

Q And did he attend them?

A Some of them. Not all of them.

Q Did you ever see him dressed in a garb that looked [fol.280] like a priest? Clothes that looked like a priest clothes?

A Well, what kind of priest?

Q Well, any kind.

JUDGE GARZA: With a Roman collar.

A Yes, on just one time.

Q BY MR. PHILLIPS: Well, now what did you all do on that occasion?

A Well, that's when we was—we weren't arrested on that occasion. That's when we were at the Solis property.

Q He had his collar—priest—

A I believe that's the time he had a collar.

Q Did he wear that type of dress all the time?

A He had his collar but not the cape or—I don't know what you call that—

Q Is that the only time you saw him dressed that way?

A Well, that's the time when it come to my attention the way he was dressed.

Q Well, did you see him later dressed that way?

A No sir.

Q That's the only occasion?

A Yes sir.

Q Now how many times did you use a loud-speaker?

A Well, I couldn't tell you exactly how many times.

[fol.281]

Q Quite a number?

A Like I said we would go out and picket and talk to the people when we were not in jail.

Q And were you using a loud-speaker?

A Sometimes we would and sometimes we wouldn't.

Q Well, now why were you using a loud-speaker?

A Well, the reason we use it is because sometimes the wind was pretty strong and they could—you can't hardly hear—excuse me, you can't hardly hear from here to where you are and its not the noise in here, and that's the reason we have to use a loud-speaker.

Q Was this a mechanical amplifier when you are talking about a loud-speaker? One that had batteries or something in it that made it louder?

A Yes sir, we had the car battery—connected with the car battery.

Q And what were you telling the workers in the field?

A Well, to join the strike or the Union, whichever it was, that it was for their own benefit, not to work so cheap any more. That it was the time for the Latin Americans to do something about—to start feeling free to do something.

Q Is that all you told them?

A Yes sir.

[fol.282]

Q You didn't call them any names?

A No sir, not that I remember.

Q You didn't call them scabs?

A No—scabs—well, esquirol is the word.

JUDGE BROWN: What did he call?

A Strike breakers.

JUDGE BROWN: What's this Spanish word for the record?

JUDGE GARZA: Esquirol, E S Q U I R O L.

JUDGE BROWN: What does it mean?

A Scab.

JUDGE GARZA: Scab.

Q BY MR. PHILLIPS: Did you call them that?

A Well, its a strike breaker. Don't be scabs, don't be scabs.

* * * * *

[fol.283] * * *

[fol.284] * * * * *

CROSS EXAMINATION

BY MR. NYE:

Q Domingo, what time did you go to the International Bridge that day that you were arrested?

[fol.285]

A Oh, it must have been around pretty close to 4:30 or 5:00 o'clock in the morning.

Q And at that time you stopped the traffic, did you not?

A Well, there were no traffic right at the time we arrived at the bridge.

Q Whatever traffic there was, however, you stopped it as it began to cross?

A Well, the traffic start taking place around 5:30-5:15 and 5:30. That's when the traffic start coming across the bridge.

Q Now the International bridge there at Roma was completely blocked by you people, was it not?

A Well, not exactly at the beginning because until we start seeing cars coming by and we will ask them, "Where are you going to work," and they will say, "Well, I'm going to Saldana, I'm going to work here on this house, I'm a carpenter, I'm a painter," we would let them go by.

Q There were a number of those people, though, that you blocked? Say by 6:00 o'clock-by 8:00 o'clock in the

morning, the bridge was completely blocked? Right?

A Yes sir.

Q Right. And then I came over and asked you to [fol.286] please move your people, isn't that right?

A You didn't ask me.

Q Well, you heard me ask somebody whoever was your leader?

A Yes sir.

Q Did you hear that?

A Yes sir.

Q And I asked you on several occasions that I thought you were doing wrong by blocking that bridge? Right?

A I don't remember hearing you say that because you know since people was so crowded in there.

Q Well, just answer my question. You do remember me asking if you would please move?

A I think I remember that you said—

Q Just answer my question.

A If you don't move, we will arrest you.

Q All right. At that time is when I asked the officers to come over there and one of the officers put—I think Mr.

Nelson was the first one that was put under arrest?

A Right.

Q And at that time you all were lying on the bridge?

A Yes sir.

Q You had your arms—

[fol.287]

A Cross one with each other.

Q Holding each other?

A Yes sir.

Q And made a complete cordon across the bridge?

A Yes.

Q And there was traffic backed up how far?

A Oh, I don't know exactly how long.

Q You didn't look at that direction?

A No, I never looked that direction. I was just—

Q Well, there was 40 or 50 cars maybe?

A I doubt it.

Q 20?

A No. I don't think there—I don't think that—not even 15 cars, I don't think, can fit from the middle of the bridge to—

Q At any rate, no one could pass?

A Beg pardon?

Q No one could pass?

A No, sir.

JUDGE BROWN: You got it blocked now.

JUDGE GARZA: Just leave it alone.

[fols.288-335] ***

[fol.336] *****

TESTIMONY of WILLIAM CHANDLER By MR. DIXIE:

Now then, we have offered in evidence before the Court copy of a document which we have labeled—which we have orally labeled 7.24—its not a paragraph in the complaint—just merely another secondary picketing and mass picketing charge that was filed on account of the events of June 4th. I now offer in evidence the testimony of William Chandler on Page 183, please, Counsel, Line 20: (Reading)—

Q Now this business happened on June 1st. Had you and your wife been arrested before that, immediately before that, for mass picketing?

A Yes.

Q When did that happen?

A In the afternoon of May 31st my wife and Horacio Carrillo were picketing at the east end of the staging area by the railroad tracks in Rio Grande City.

Q They were picketing against La Casita sheds at that time?

A Yes, that is correct.

Q Now, were there any other pickets around your wife [fol.337] and Horacio Carrillo?

A No, not at that location, other than myself. I was about a hundred and fifty feet away from the two pickets.

Q What had you done there?

A I had brought Coca-Cola for both of them. I was waiting for them to finish drinking the Cokes so that I might take the bottle back.

Q Why were you concerned with taking the bottle back?

A If they were left on the ground I was concerned about there might be a question of littering.

[fol.338] *****

A The next thing that happened, I noticed Captain Allee driving up the road and he came to a stop and

slammed on his brakes rather hard and made a cloud of dust and got out, and I said, "Hi" to him. He didn't say anything except an order to the other Rangers that "Run them all in." They then asked Allee, "You want him, too?" Pointing in my direction. And he said, "Yes." He then got back in his car and took off. They then called for Roberto Pena to come and provide transportation for those of us what were under arrest. Roberto showed up moments later and the two Rangers there ordered directly my wife and Mr. Carrillo to get in Mr. Pena's car. I then asked, since they hadn't told me anything, if I should go, too. They said, "Well, no. Why don't you go on about your business?" I said, "Okay." And I left after Mr. Pena left.

Q In other words, the Ranger failed to arrest you even after Captain Allee told him to?

A Yes, that is correct.

Q How far away from the two pickets were you standing at the time that Captain Allee gave the order [fol.339] to arrest you?

A I was standing about a hundred and fifty feet away from the two pickets.

Q Did you have a picket sign or anything in your hand?

A No, I didn't.

Q Were you doing anything at all except waiting for the Coke bottle?

A That's all I was doing.

MR. DIXIE: That finishes on Page 186 at Line 21.
Resuming on Page 188 at Line 7: (Reading)—

Q All right. The next day did you hear from this episode again?

A Yes. We were told to return at 9:00 o'clock in the morning and appear for arraignment before Judge Lopez' Court. This we did. We returned about 9:00 o'clock. About 9:30 Mr. Carrillo was brought and my wife and himself and myself were charged with secondary picketing—or mass picketing, excuse me, and direct boycotting. I was quite surprised since I had not been incarcerated at the time.

MR. DIXIE: That's all on Page 188. Then we had a colloquy between Mr. Nye and [fol.340] myself on Page 189 in which we established by agreement that these three people were charged—one complaint at mass picketing and also a complaint of secondary picketing. That's on Page 189, Lines 10 to 17.

[fol.341] *****

Q So why a minute ago did you say you were picketing La Casita? Actually you weren't, were you?

A Yes, because this was the nearest public access at this particular location.

Q To La Casita?

A To La Casita.

Q Well, you had had pickets right in front of their sheds everyday for a year, hadn't you?

A Yes.

Q Actually on La Casita property, hadn't you?

A I don't think that—I don't recall that anybody picketed on the La Casita Farm.

Q Well, I won't argue with you about whether it was La Casita property but, actually, you had pickets that were within 30 feet of the shed itself, did you not?

A Yes.

[fols.342-346] * * *

[fol.347] * * * * *

TESTIMONY of FRANCISCO MEDRANO By MR. DIXIE:

A As I was taking a picture of the Rangers coming in to get the girls, Captain Allee saw me taking pictures and he says, "Arrest that man. I don't want any pictures taken." And three Rangers jumped

[fol.348] * * *

[fol.349] as I remember. So I start taking picture of Captain Allee's struggling with Cathy Baker.

Q Then what happened to your camer?

A Then one Ranger came in, opened the door, and with his right hand hit me with my camera in my eyes and face and my nose, which was swollen for over a week afterward.

Q He pushed the camera in your face?

A Against. And then took the camera away.

Q All right. Then did the Rangers take you and others before a Justice of the Peace?

A Yes sir.

Q Where was the Justice of the Peace?

A This was in Edinburg, Texas. I don't know how many miles it is. It seems like its a long way off to Edinburg. A Justice of the Peace by the name of Benito Villarreal.

Q And did the Justice of the Peace arraign you before him? I mean did he tell you what you were charged with?

A He told me that I was charged for unlawful assembly or illegal assembly. Something like that.

[fols.350-368] ***

[fol.369] *****

MR. DIXIE: I will introduce the balance of the supplemental stipulation, and the only point that I have to call to the Court's attention about that is that we have stipulated that the employees of La Casita Farms come to

work from three primarily sources. One of them is they may live in the immediate neighborhood and they may walk to work. And second one is if they live in Starr County they usually gather at the La Casita shed down on the Highway 83 where they board company buses and they are taken by buses to the farm to do their work. A third source, the stipulation says, is that they would come over from Mexico and get on buses at the Roma Bridge, other bridges, and be taken by bus to work. Each bus carries about 30 employees more or less.

[fols.370-417] * * *

[fol.418] * * * * *

FRANK RANDALL NYE, JR.,
having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Please state your name?

A Frank Randall Nye, Jr.

Q And what is your occupation, Mr. Nye?

A I'm an attorney.

Q And do you hold any official position in Starr County?

A Yes sir, I'm County Attorney of Starr County.

[fol.419] * * * * *

Q Would you tell us a little bit of the events that led up to the first day of the picketing in June, I believe, 1st, 1966, the record will show?

* * * * *

[fol.420] * * * * *

A I was first advised about the fact that there appeared—that there was going to be some activity with respect to picketing et cetera when Mr. Eugene Nelson made various statements to the press, and it was a well-known fact in the community that picketing was to begin at a certain time which was June 1. At that time I noticed personally an influx of a number of people that had not been known in our County, that were evidently spearheading this movement. Mr. Eugene Nelson, Tony Orendain, William Chandler, Magdaleno Dimas and others.

[fol.421] * * * * *

MR. DIXIE: And another thing—I followed the Judge's intrusion—that Tony Orendain and Bill Chandler didn't come until months later, if you are talking now about June of 1966, I believe.

A That's right. I said June—when it was going to start on June 1, 1966. I at that time felt that the Texas Rangers should be called in because I didn't know what was going to happen. I was only concerned about seeing that the law was enforced in both directions. I can assure you that. And I called Captain Allee and told him that I understood that they were going to begin picketing on June 1 and [fol.422] asked him if it was possible to have a Ranger present. And he said, "Yes, I'll see if I can get one down there." And then I went to Austin, as I recall, or somewhere else. At any rate I wasn't present in Starr

County at that time and that's when an incident happened where I believe Eugene Nelson was arrested for blocking the railroad. That was the first incident with respect to Union activity that I recall that had anything to do with law enforcement officials.

All during this time there was—the picketing continued and it continued throughout the summer, as I recall. At that time—at some time during these first picketing days I discussed with Mr. Nelson the picketing statute that we had in Texas and gave him various Xerox copies of it. And then picketing continued for a long time without any incident.

And the next time that there was an incident was on October 12th, 1966. I think at that time Mr. Chandler was arrested for abusive language. And then we discussed the picketing statutes again, and things were quiet until there was the bridge incident on October 24th, 1966.

At that time is when I became quite concerned [fol.423] because this was International Bridge. It had been blocked. And I was called early in the morning. I got there about—I guess 7:00 or quarter of 7:00. Something like that. And these demonstrators had been there for quite some time. And I went out and tried to dissuade them from any further activity. However they never would disperse and traffic started getting piled up.

Meanwhile I felt that this matter could rise to greater proportions so I started calling in everyone that I knew. I called the Rangers, I called the Federal—United States District Attorney in Houston and talked with Mr. Susman and discussed the fact that this was an International Bridge, that if there was any possibility of assistance from

Federal authorities. I talked to the local Border Patrol—the Border Patrol Inspector, I think, in McAllen—and asked them if they could help us. I talked to the Attorney General's office in Austin and asked their help. And then we—we don't have a great library there in Rio Grande City so I asked Mr. Luther Jones if he could check out the law with respect to offenses.

And so after talking with them for a short period because we were, so to speak—we had to [fol.424] act obviously immediately—we found that statute on the blocking of the bridge and we just took action on it.

JUDGE BROWN: What statute is that? State statute?

A Yes sir, blocking of the bridge.

JUDGE BROWN: International or it doesn't state?

A It doesn't specify, no sir. Then things quieted down—

JUDGE BROWN: Let me ask a question in general interest. With respect to an act taking place on the bridge itself but on the American side of the International boundary, wherever it is, would that be within the jurisdiction of the State Courts of Texas or is that a Federal offense?

A I was hoping it would be a Federal offense, Judge, because we needed help but I was turned down by everyone. And I would say this: That we know it was in the United States because at one time when we approached this group that was blocking the bridge they

went into Mexico. There's a very definite line of demarcation. And the Mexican officers told them if they wouldn't get off they [fol.425] would take action.

Anyway, about 10:00 o'clock, why, some action was taken and they were—these people were taken into custody.

Then there wasn't—there was some isolated incidents. I would like to point out at this time, if the Court please, that there were about 15 instances where the law enforcement officials and the Union came to an impasse there. And this morning I thought this might be helpful to the Court. I drew up a little chart here just showing when these 15 instances were—the dates and the number of complaints and arrests that were taken, if the Court would like to see them.

JUDGE BROWN: This is from your own knowledge, too, isn't it?

A Yes sir, it is.

JUDGE BROWN: I think it would be helpful, if there is no objection. Is there any objection?

MR. DIXIE: May I see it?

MR. NYE: Surely.

A Because this all happened over a course of a year, Judge, and there is 15 incidents there that were—where there were complaints and arrests made.

[fol.426] * * * * *

A Then in December, January, we had, say, three or four incidents, and then In February there was one incident and then one in March. However by that time there was a great deal of activity. Picketing was continuing through this period of time. In some instances property and in some instances I had received complaints from different people. I thought that it was being picayunish in one instance to bring any action if they were within 20 feet or 30 feet. So we didn't take any action. At any [fol.427] rate, the situation in my mind later became electric some time in early May and we knew that the harvest season was about to begin and there had to be some evidences that indicated to me that something might happen. And Starr County is—I don't know exactly how many miles—square miles we have in it but its a rather large County. It some 50 or 60 miles wide by 30 or 40 in breadth. And we have only one incorporated City which is Roma and they only have local Marshall. And so I felt that our local law enforcement group was not large enough or equipped to handle something that might have happened.

I had been contacted on several occasions by merchants and individuals that were concerned about possible violence that might lead to bloodshed. And as a result of that—meanwhile I had continued—I called the FBI and asked them if they wanted to come in and investigate some of these matters. I talked again with Mr. Susman. I think I even discussed it with Mr. Lopez.

Meanwhile I had also called the Attorney General's department. This is intermittently over a period of six or seven months since May. And they would come down on occasion. The Attorney [fol.428] General's department had representative down there on several occasions and

they would counsel with us and go on back. Meanwhile the situation—I felt—needed further attention by the Rangers. So I had called Captain Allee on two or three different occasions, say, in early 1967, and he indicated that his Rangers were busy people and, "Well, maybe I can't send you one now but I'll send you one in four or five days." And that would have been too late for our purpose.

So I made a special trip to see Colonel Garrison and took our State Representative with us and asked him to go up there. And he knew the situation. So we went and visited with Colonel Garrison and that's when he assigned the Rangers to Starr County in this particular situation.

JUDGE BROWN: Now what is the date of this?

A May 10th, sir, 1967. Up until that time I had asked for one Ranger or two or three directly from Captain Allee.

JUDGE BROWN: Now, is there a substation of the Rangers in your area?

A In Crystal City—not Crystal City but in Carrizo Springs is where Captain Allee's office is, yes [fol.429] sir.

JUDGE BROWN: Call it District, I suppose.

A Yes sir. It's something like that.

JUDGE BROWN: How many rangers did he have under his command?

A I think seven or eight or something like that.

CAPTAIN ALLEE: I have ten counting myself. I now have nine.

A And then in May, of course, of 1967 is when we had one arrest. There was no arrest in April. One arrest on May the 11th, one on May 12th. Then 22 of them on May 18th, and 13 on May 31st. And then six on the following day.

And at that time there was some action taken by the growers that resulted in an injunction, and after that there was no more activity. But I can tell you, gentlemen, that we did our best and I have no apologies for either my actions or those of our Starr County law enforcement officials. And I do believe that had the Rangers not been there there could have been some bloodshed. And it could have been on either side. I was only interested in seeing that the peace was kept.

Q BY MR. PHILLIPS: Mr. Nye, how many full time deputy sheriffs are there in Starr County?

[fol.430]

A There is three and an office deputy.

Q That is the total for the entire County?

A Yes sir. Then there is also—now we have a number of special deputies. There is 40 or 50 of those. In that—we will take Falcon Dam as an example. All of the guards at Falcon are.

Q But they don't robe out over the County?

A Yes sir. And if a person, say, has a game preserve or something like that and he comes in and says I'd like to ask for a special deputization, why, the sheriff will give him one.

JUDGE GARZA: What classification does Mr. Rochester come under?

A He was one of the special deputies, as I understand it, that was on the roll.

JUDGE GARZA: On the road?

A On the list, roll.

JUDGE GARZA: Why did he want one? Did he have trouble with his tractors or what?

A I don't know, Judge, when he got his but I'm under the impression that he got it before this started. But I don't know.

Q BY MR. PHILLIPS: All right. Now then, how many constables are in the County?

A Four

[fol.431] * * * * *

Q BY MR. PHILLIPS: Now then, there has been three full time deputies in addition to these special deputies, plus the office deputy?

A Yes sir.

Q And that was your total law enforcement staff?

A That's right, sir.

Q And is that the reason that Raul Pena and Roberto Pena—they are two of these deputies?

A Yes sir. One of them lives in Roma, Raul Pena. [fol.432] He's the chief deputy. And then he has a cousin by the name of Roberto Pena who lives in Rio Grande City and he's another one of the full time deputies.

Q I believe Judge Brown asked yesterday how it was that these two Penas appeared so frequently at La Casita Farm. The fact is that they are about the only law enforcement available, is that correct?

A Yes sir. The other deputy, he's the traffic deputy and he usually works on traffic.

Q And that's just about all he does?

A Yes sir.

JUDGE GARZA: Mr. Ellert is the office deputy?

A Mr. Ellert is the office deputy. He answers the radio and things of that nature.

Q BY MR. PHILLIPS: Mr. Nye, did you advise the officers in the filing of any of these complaints or drawing these complaints?

A In some of them I did. And we weren't familiar with any of these—I mean any of these laws with respect to picketing and before we filed the first one we also called DPS and did a little research, as much as we could with our

limited facilities there with respect to our legal library, [fol.433] black statutes, and we were—it was my feeling that that was the action we should take.

Q Did you talk to a lawyer at DPS?

A Yes sir.

Q Now DPS, you mean Department of Public Safety?

A Department of Public Safety, yes sir.

Q All right. Have these cases been tried?

A Some of the first ones were tried and the ones with respect to the bridge incident, but I tell you, Mr. Phillips, that fact has brought on further complications with respect to the peace and security of our little County and we had an influx of strangers and we had a situation there where we were concerned about a demonstration there.

Q At the trial?

A Yes sir. And there was—it was extremely well attended by University people from all over and people that—I guess there were several hundred there. And so I felt that this wasn't conducive to the peace and tranquility of our County so I decided on some of these complaints that were pending later on not to seek immediate trial because I felt that that—the situation could get out of hand. But at any rate—and then when [fol.434] we did, our County Judge felt that he should be disqualified and that Starr County wasn't the place to try them because he wanted to give them a fair trial. So I agreed with him and then they were transferred to Hidalgo County.

Q Is that with the agreement of the defense Counsel?

A Well, it was on their motion.

Q On the motion of the attorneys for the defendant?

A Yes sir.

Q And they were all transferred to Hidalgo County?

A Yes sir.

Q Then what happened?

A Well, then they had a hearing in Hidalgo County and transferred them back to Starr County.

JUDGE GARZA: Didn't want that hot potato.

MR. NYE: You better believe it, Judge.

MR. PHILLIPS: I would state to the Court that there is no provision for change of venue on a misdemeanor case.

JUDGE BROWN: That's when the constitution steps in.

MR. PHILLIPS: That's correct, sir.

JUDGE BROWN: And what happened to that case? Judge Spears wrote it.

[fol.435]

MR. PHILLIPS: I don't know just what has happened now.

JUDGE BROWN: Was it appealed? I remember when he wrote it.

MR. CROW: I don't believe that was appealed, Your Honor.

A And then we came back to Court and we were in the process of trying to pick another Judge by agreement, and then of course Mr. McKeithan died.

Q BY MR. PHILLIPS: And then this case was filed?

A And then this case has been pending which is more important.

Q Now, let me ask you this: Is it your contention that if these laws are held constitutional and you are not restrained by this Court that you do intend to try these cases when this matter is concluded?

A Yes, in my opinion it is my duty and I think we have sufficient evidence on each one. And I'm going to go forward with them.

[fols.436-468] * * *

[fol.469] * * * * *

BY MR. PHILLIPS:

Q Did it make any difference to you, Mr. Nye, whether they did organize or did not organize a Union in Starr County?

A No sir.

Q Did you have any agreement with any of the growers in connection with your activities in filing these [fol.470] complaints?

A No sir.

Q And did you file them because you had any representation of any of them as an attorney or did you file them only in your capacity as County Attorney of Starr County?

A I was merely doing my duty as I saw it, sir.

[fols.471-472] ***

[fol.473]

JUAN VELA,
having been first duly sworn on oath, testified through the Interpreter as follows:

DIRECT EXAMINATION

BY MR. PENA:

Q Now what is your name?

A Juan Vela.

Q Now when I ask you a question I want you to wait until the Interpreter has translated the question to Spanish.

A All right.

Q And where do you reside?

A In McAllen.

Q And where are you employed?

A Where I work?

Q Yes.

[fol.474]

A Briffin and Brand in McAllen.

Q BY MR. PENA: Have you ever had an occasion to work for Trophy Farm Number 3 in Starr County?

A Yes, I have worked.

Q BY MR. PENA: What kind of work did you do there?

A I'm a field man for the man who work over there at the field at Griffin and Brand.

Q Did you ever transport any field workers to the farms?

A Yes sir.

Q During the 1967 melon season did you ever have occasion to transport a crew of field workers to Trophy Farm Number 3 in Starr County?

A Yes sir. I send two field workers to harvest the melons.

* * * * *

[fol.475]

A Two crews, yes.

Q BY MR. PENA: Approximately how many field workers were you in charge of?

A There are two crews over there. One maybe composed of 35 hands and the other one of about 25.

Q Approximately what time did you arrive at the gates of Trophy Farm Number 3?

A I don't remember exactly what time but it must be—it was about 7:15 or 7:20 when I went over there to the gate and I found the people over there waiting because they were stopped over there.

Q Who stopped you from getting into the Trophy Farm?

A I don't know who they are but there were several people there at the gate saying that they were not going to work that day to harvest the melons, and then I asked them why, and they told me because they cannot pick this fruit until they pay more.

Q Are you trying to tell the Court that the people there who were blocking the entrance?

A Yes, they were blocking the entry when I told them. I told them to let me go in on that day.

Q Were these people Union picketers?

A They had some signs over there and I didn't know what it was all about.

[fol.476]

Q How many people were there who were blocking the entrance to the farm?

A I could not tell you how many because they were only at the gate. I cannot tell you exactly but about 20 or 25.

Q Were you met at the gate of Trophy Farm daily during the melon season?

A The next day when I went back over there the crews were stopped again there. They didn't stop me. Then I moved about 50 feet away from there and I talked by radio to the office of the Trophy Farm and I told them that they would not let me go in. Then they told me that I had promised them not to come back. Then I told him that I was going to call the office. When I talked to the office by radio the Rangers came and they let me go in.

[fol.477] ***

[fol.478] *****

Q BY MR. PENA: How many picketers were there the second day?

A I cannot tell you exactly but I didn't try to count them. I wouldn't gain anything by counting them. But the

only thing I wanted to do was for them to let me go in to pick up the fruit.

Q Did they use any abusive language on you?

[fol.479]

A They used it with me and with other women.

JUDGE GARZA: No, no. And on other people because there were some women there that were loud talkers and abusive talkers.

Q BY MR. PENA: Can you tell us some of the words that they used?

A They used some bad words.

JUDGE GARZA: The women.

A The women. The ones that were in strike.

Q BY MR. PENA: What did they say?

A One of them said that the melons on that year should become—

JUDGE GARZA: Shit.

A —shit.

Q BY MR. PENA: Did they use any other language similar to that?

A What they use to say was that they were sold.

Q All right. Now can you tell us of any instances that may have occurred while you were out in the fields picking the green peppers?

THE INTERPRETER: I didn't get your question.

Q BY MR. PENA: Can you tell us of any incident between your people and the picketers while you were out harvesting green peppers in Trophy Farm [fol.480] Number 2?

A That was another week. Some other week. When I got through with the melons we started to pick up the peppers. They had a truck with people on the truck where they were taking them back to Reynosa or I don't know where—in automobiles—to take them back when the Rangers came.

Q Did you see a truck parked out there by the side of the road with a loudspeaker?

A That pickup came over there later on when the people were already working inside of the farm.

Q Did they use a loudspeaker?

A Yes sir.

Q What did they say?

A They told me that they were sold, to let me pick up and carry the baskets full of chili, chili peppers.

Q What was the exact word they used, though?

A To let me pick up the peppers, that I was working over there and let me work by myself.

Q Did they ever use the word cabron?

A Yes sir.

Q And what does that mean?

A I cannot explain to you.

MR. PENA: Would the Interpreter care to interpret the word cabron for the record?

[fol.481]

THE INTERPRETER: Well, the dictionary actually says that it means he goat.

MR. PENA: I'll ask the witness—

THE INTERPRETER: But let me further explain that in the common language of the people in Mexico in means a husband who consents to the commission of adultery by his wife with some other man.

JUDGE GARZA: And it is also used synonymously like son-of-a-bitch.

Q BY MR. PENA: And is that one of the words used?

A They were two men over there in the pickup.

JUDGE GARZA: Ladies. Ladies he said.

A About the peppers, it was two men only.

Q BY MR. PENA: And they used a loudspeaker for that?

A Yes sir.

[fols.482-496] * * *

[fol.497]

JAMES WILSON ROCHESTER,
a witness who had previously testified herein, was at this time recalled and testified further, as follows:

DIRECT EXAMINATION

BY MR. GURWITZ:

Q Will you state your name for the record?

A James Wilson Rochester.

Q Where do you live, Mr. Rochester?

A I live on La Casita Farms in Starr County.

[fol.498] * * * * *

Q How long have you been employed by La Casita?

A It was seven years last April.

Q In Starr County?

A Yes.

Q All right, and what is your job with them?

A I'm ranch foreman in charge of the farm operation.

Q All right. You oversee all their farming operation?

A All of the farming operation.

Q All right. Now let me call your attention, please, Mr. Rochester, to some specific incidents. First of all—

MR. GURWITZ: May it please the Court, this is concerning 7.13 and 7.14.

Q BY MR. GURWITZ: First of all, let me call your attention to the date of February 1, 1967. This is concerning an incident that they alleged occurred near the Bazan property on the west edge of La Casita.

[fol.499]

JUDGE GARZA: When they arrested the five Priests.

MR. GURWITZ: Yes, when they arrested the five Priests.

[fols.500-501] ***

[fol.502] *****

Q All right. Sit down just a moment. Okay, sir. Now this incident where some Priests were arrested, tell us from the beginning how you happened to be out there and then what you saw.

A That morning I had went to what we refer to as our north farm. It is north of Highway 83. It isn't on this map.

And I was checking fields for various things, insects, et cetera. I received a call by radio from my tractor foreman and he told me—and his exact words—"Huelgistas are in the field." I asked him where. He gave me the block number which is number 55. And I told him I would be right down and check on it.

Q Did you go down there?

A I went down into the farm through the main gate, I went—

[fol.503] *****

Q All right. Now when you got there, what did you see?

A Well, I came down to the field 65 and as I turned the corner—I might explain that that Bazan property is all big high brush and trees on the west side—you have to go around a corner there before you can even see the field or anyone in it. As I came around the corner there was a number of people standing—some of them in the road, some of them back on the brush edge and two or three right at the end of our vegetable rows. I proceeded on by and the people in the road and over at the end of the vegetable rows moved back over to the brush side. I passed on by and went along the east edge of the Bazan property. I called my office which is there on the farm and told my timekeeper to call the Deputy Sheriff, to call the [fol.504] Sheriff's Office.

Q What were these people doing?

A They were hollering at the workers working in that field which is numbered Field 55.

Q Did some of these people appear to you to be Priests?

A Yes, there was several of them had on the clothing of Priests.

Q All right. Approximately how many people would you say you saw out there all together?

A About a dozen.

Q All right. And when you drove by they all jumped back and got in the brush?

A Well, they didn't jump. They moved back slowly.

Q All right, they got back off of La Casita property?

A Yes.

Q All right, you went on around and called the Sheriff and he came out?

A Well, I called by radio to my office and my timekeeper called the Sheriff's office.

Q All right.

A I then waited north of there until the Deputy Sheriff came out.

Q Did you wait out of sight of these people?

A Yes.

Q All right. Would this brush then be, say, somewhere [fol.505] on the south side of the Bazan property?

A Well, that's almost all either brush or weeds six feet high.

Q All right. Then you waited up here north?

A Yes, quite a bit north.

Q And since they were talking to people in the field in 55 they could not see you beyond the brush?

A No.

Q All right. Mr. Rochester, was this the first time that you recall that they had actually entered into La Casita Farm this far down on this side over here?

A Yes, that's the first time that I ever knew of them coming on to our property.

[fol.506] *****

Q BY MR. GURWITZ: Now who was the Deputy Sheriff that came out?

A It was Roberto and Raul Pena.

Q All right. Were there any arrests made? Did you see any arrests made? Let me ask you this: Did you tell them what happened?

A I told them what I had seen as I drove by between the brush of the Bazan's and our block 55.

[fol.507]

Q All right, what if anything did you then see the deputies do?

A I came back—now they came around on the west side of the Bazan property, on the La Casita road. I came back down on the east side and stopped at the southeast corner of the Bazan property. The deputies went up there and talked to those people a few minutes and started putting them in cars. As a matter of fact they took one of my foreman's pickups. They borrowed it because there were so many people they couldn't get them in their cars.

Q All right. And did they start driving off with them?

A Yes, they started to drive off.

Q Did they actually get all of the people into their car?

A No. Just as they drove up to that point there was two people ran back through the Bazan brush. They were just a very short time putting those people into the two cars—I believe there were two cars—and the one company pickup, and they immediately started to leave. I drove up to the—that would be the southwest corner of the Bazan property—just as one of the deputies went around that corner. And I stopped him and told him that I had seen two of them run through the brush. He had about four or five people [fol.508] in the car with him and he was alone. He was one of the deputies alone. He had no one with him.

And he says, "I can't do anything about it. I've got a car full here." He said, "Can't you take care of it?"

I said, "Well, I'm a deputy sheriff. I'll go see if I can catch him."

[fols.509-513] * * *

[fol.514] * * * * *

Q Okay. Had you ever seen them use loud-speakers before?

[fol.515]

A Oh, many times.

Q To try and talk to your workers in the field?

A Well, yes, in the field. I have seen them many, many times—I have been woken in the morning at 5:00 o'clock with that loud-speaker up there at my house at the main gate with people hollering viva la huelga and playing loud music over it and just talking in Spanish and loud—well, you could hear them for a half mile at that time of morning. Its dark at 5:00 o'clock in the morning. And I have just been about shook out of bed with that thing going.

Q All right. Its pretty powerful, is it?

A Very powerful.

Q All right, sir. That little community there of La Casita—they call it La Casita right around the front gate?

A Yes, its referred to as La Casita—La Casita Ranch or Village.

[fol.516] *****

Q All right. Okay, sir. And now let me go back some and ask you about the incident that occurred on the 17th of November, 1966, which is 7.6 in the pleading and which is the Zoila Ozuna incident. Now where did this happen?

A That incident took place at the main gate of La Casita Farms.

Q All right. About what time of day did this start?

A Well, it was first brought to my attention about 6:45.

Q All right. How was it brought to your attention?

A Well, I had went down on the farm—I usually do that—and my workers come to work at 7:00. I met them down there. My tractor foreman called me [fol.517] on the radio and said there was trouble at the gate. So I went back to the main gate.

Q What did you see when you got there?

A Well, I seen a group of people around out in the approach road and three people standing immediately in our gate.

JUDGE GARZA: May I interrupt you all a minute. Isn't that one of the ones that Mr. Dixie said he was abandoning, wasn't going to offer any evidence on it?

MR. GURWITZ: Yes, sir, it is and I don't intend to go into the aspect of it about which he was going to complain but there are other elements of this incident such as Magdaleno Dimas threatening him which I think are relevant to other matters in this case.

JUDGE GARZA: All right.

Q BY MR. GURWITZ: This is the incident where Dimas subsequently threatened you?

A Yes.

Q All right.

A There were three people standing in our gate. I wouldn't know how many—20 or 25—people around the immediate area outside of the gate. I passed in front of the bus and right by these [fol.518] people blocking the road and told them, "You better move out of the way, I'm going to drive this bus through this gate."

Q All right. Now wait a minute, wait a minute. Let's distinguish between road and gate. Now there is a public road leading up to the gate, is there not?

A Yes.

Q All right. There is a highway that comes off here and down here is a dirt road?

A That is correct.

Q All right. What were they blocking, you say, was the gate entrance?

A The gate.

Q The gate. All right. Is that shown in 7.9B?

A Yes. I might explain it. This gate itself—the actual gate is recessed inside our property line about 15 or 20 feet.

Q All right. Now the—

JUDGE BROWN: Excuse me a minute. You estimate your direct examination and cross examination will be running at least half an hour of this witness?

MR. GURWITZ: I think so.

JUDGE BROWN: I think the Reporter needs a spell, so the Court will stand in recess for ten [fol.519] minutes, please.

(Whereupon a short recess was taken, after which the following proceedings were had:)

JUDGE BROWN: Proceed.

Q BY MR. GURWITZ: Mr. Rochester, before the recess you explained the La Casita gate is recessed 15 to 20 feet. It would be south of your property line?

A That's correct.

Q And you identified picture 7.9B that there were three people standing in your gate blocking your bus?

A In the gateway.

Q All right. Did you have workers on the bus?

A Yes, there was probably 50 or 60 workers on the bus.

Q All right. Were there any cars or other vehicles piled up behind the bus?

A There were several. I don't know how many but there were quite a few.

Q And none of them could get through the gate or to the gate until the bus could get through?

A No, they couldn't possibly.

Q All right. Did you say that there were other picketeers or other union people around the area?

A Oh, there were 20 or 25 all together.

Q What were they doing?

[fol.520]

A They were milling around, standing in close to the sides of the bus in groups.

Q Were any of them trying to talk to people in the cars?

A They were more or less concentrating on the bus. They were hollering. They weren't actually trying to talk in the manner of holding conversation but they were hollering at the people in the cars and the bus.

Q All right, what did you do?

A I went by and informed the people that was blocking our way that I was going to drive the bus through. I got in the bus, I sit down in the seat, and as I did that Magdaleno Dimas hollered, "You son-of-a-bitch, you're not going to do that," and he jumped up in the bus door.

Q All right.

A I jumped out of the seat of the bus and rushed towards him and he jumped back on to the ground.

Q Did you hit him?

A No sir.

Q Or touch him?

A No, I didn't.

Q All right. He jumped in the bus, you turned around and he jumped out of the bus?

A That's correct.

JUDGE GARZA: Were you driving the bus?

[fol.521]

A I had just got in the bus, Your Honor, to get ready to drive it through. My regular bus driver had been instructed to stop when anyone obstructed his way that way.

Q BY MR. GURWITZ: All right. Then what did Magdaleno say or do after he jumped out of the bus?

A Well, he jumped back and as he jumped back Manuel Benavides was standing—had came up when he seen him going in the door and was standing right there, and he reached in—Magdaleno Dimas reached in his pocket. Manuel Benavides grabbed him by the arm and says, "You are not going to do that." I don't know what he intended or what Manuel Benavides thought he intended. They had some words in Spanish which I don't understand. And then Magdaleno Dimas looked up in the bus to me and said, "You son-of-a-bitch, I'll get you."

Q Did he then walk off?

A No, he was standing there beside Manuel Benavides, and I got back in the bus and proceeded to drive on through the gate.

Q All right. After you got on through the gate did you then turn the bus back over to the regular bus driver?

A That's correct. I got through the gate, turned the [fol.522] bus back to the bus driver and got in my pickup and I went about my business.

* * * * *

Q BY MR. GURWITZ: Did you know Mr. Dimas' general reputation?

A I had been told by many of the people around there that he had a very bad reputation, was known to be a violent type of person, and had a criminal record.

Q Did you consider his threat to be serious?

A Absolutely.

Q All right. Now I believe we have covered that incident. All right. Now let me refer you to the incident that occurred on June 1, '67, which is inferentially or subsequently a part of 7.22. This is the Dimas incident. This is on the night that [fol.523] they came on to La Casita property. All right. Now, will you tell us that evening of June 1 where were you working?

A I was at the packing shed in Rio Grande City. La Casita packing shed.

Q All right. Had you gotten any information about Mr. Dimas?

A About 10 o'clock I received information that Magdaleno Dimas had been seen by several people on the north side of the packing shed, on the railroad tracks, and also on the south side of the packing shed in an area—slipping along in an area that has some shrubery here. Had been seen with a rifle.

Q All right, what did you do?

A I went into my office and borrowed my night watchman's pistol.

Q All right.

A And stuck it in my belt.

Q You had it in your belt?

A That's correct.

Q You were concerned that Dimas may attempt to carry out his threat?

A That's correct.

Q All right. Did he subsequently on that evening [fol.524] appear on the premises of La Casita shed?

A Yes, later on, about an hour later. Say around 11 or 11:30. I was busy. I didn't notice the time exactly.

Q Excuse me just a minute. Would it be fair to say that your times are approximate?

A Approximate, yes.

Q All right, go ahead.

A I was standing on the loading dock of La Casita shed and I seen a car drive by and someone hollered viva la huelga. They then proceeded on west about 100 yards or maybe a little less and turned in to La Casita's driveway. They drove up right in front of me in the driveway, about 10 feet from the edge of our packing shed. And it was Magdaleno Dimas and Benito Rodriguez.

Q All right, did they stop?

A They stopped right in front of me.

JUDGE BROWN: Now what time was this about?

A About—somewhere around 11 or 11:30 in the evening, Your Honor.

Q BY MR. GURWITZ: All right. Now you recognized them both?

A I recognized both of them. They were parked under an area light.

[fol.525]

Q Dimas was the one who had threatened you?

A That's correct.

Q And Rodriguez was the one you had arrested that day or caught that day trying to run when they arrested the Priests?

A Not that day.

Q I don't mean that day. It was on that occasion.

A Prior to that.

Q BY MR. GURWITZ: Were there any other threats when you told the Court, "You son-of-a-bitch, I'm going to get you?"

A No, he said, "I'm going to get you."

[fol.526]

Q BY MR. GURWITZ: All right, now what—did they stop when they drove along?

A They stopped. I recognized them and I asked them, "What do you fellows want here?"

Q All right.

A Well, neither of them answered. I was looking down into the car. Magdaleno Dimas had a rifle across his lap with the barrel pointing downward and he reaised it up about—he had the barrel pointing on the floorboard—he raised it to about where the barrel was about even with the dashboard. I pulled my pistol out and shot twice down beside the car.

Q All right. Now which—who was driving?

A Benito Rodriguez.

Q And which side of the car was closest to you?

A The driver's side of the car.

Q Was closest to you?

A Yes.

Q All right.

A He slammed the car in gear to take off, and I hollered, "Hold it, I want to talk"—hollered, "Hold it right there, I want to talk to you," and they then sped away. They went about 100 feet and I seen the tail lights come on all of a sudden and the car slowed down. They put the brakes on. I seen the [fol.527] stop lights. I could see Magdaleno Dimas turn around in the seat, and I fired at the car again.

Q Could you see if he had the gun when he turned around in the seat?

A Not for sure.

Q All right, where did you fire this time?

A I fired at the bottom of the car down near the tires or the gas tank area.

Q Any of these times did you ever shoot at these people?

A No.

Q Okay. Then did they drive on off?

A They went on down the driveway. They had to almost stop to get out of our driveway because its a real sharp turn down there. They headed back towards Rio Grande City in a high speed and that's the last I seen of them. I turned around and told our dispatcher to call the sheriff's office.

Q All right, and the name of your dispatcher?

A His name is—we call him Joe Pena.

Q All right, and he's the son of Roberto Pena?

A Roberto Pena, yes.

Q Who is the deputy sheriff?

A Yes.

Q All right. Now let me call your attention to the [fol.528] incident that occurred on December 28th, 1966, which is 7.9 in the pleadings, which is the Manuel Balli incident. All right, would you tell us what you saw on that occasion?

A Well, I was—

Q Now I'm referring now to the time when someone reached in and either grabbed Mr. Balli by the shoulder or put their hand inside the car. Tell us what you saw.

A When I was out there with Roberto Pena they were blocking the road that morning and—

Q Now tell us what you mean by the road.

A The approach road to the main gate of La Casita Farms.

Q Is that a public road?

A That's a public road, yes.

Q All right. How were they blocking it?

A They had these huge red flags with the white center and a black bird design in them on about six or seven foot standards and they were crossing them in this manner in front of the cars.

Q All right.

A I went down there—well, actually before that Manuel Benevides came and told me that they were doing

this, blocking the road, and asked me to [fol.529] call the sheriff's office which I did. And I went down there. By that time Roberto Pena had already arrived and he was talking to the people trying to persuade them not to block the road.

Q All right. Now when you got there, was the road blocked?

A It was blocked.

Q Were there cars stopped on the road?

A Absolutely, there were several cars stopped.

Q Can you estimate how many?

A Oh, eight or ten.

Q All right.

A Roberto argued with those people for at least 15 minutes. Finally they consented to not block the road. And they let the cars pass. It was one car passed. I don't know whose it was. I'm not positive whose it was. I believe it was my stitcher operator's. But then Manuel Benevides pickup was second in line. He started ahead at a very slow speed. Just as he got to the corner of a fence that is up about a hundred feet from where Roberto Pena and I were standing someone reached through his window and grabbed at him. I was standing looking through the back of his window and I seen the hand strike him looked like on the [fol.530] corner and then slide off and grab his coat in this manner.

Q BY MR. GURWITZ: Could you actually tell if he grabbed his coat or did you just really see his hand go in?

A I seen him take hold.

Q All right.

A I was looking at Manuel's back where I could see the back of his shoulders. I turned to Roberto Pena and said, "Did you see that?" He said, "I sure did." And he went up there and arrested one of the de la Cruz brothers.

Q All right, then what happened?

A He started to take de la Cruz to his car and he was immediately mobbed by about 20 people. They just got around him, they grabbed hold of de la [fol.531] Cruz, they grabbed hold of Deputy Sheriff Pena and I thought they were going to throw him to the ground. And they wrestled with him there for over five minutes.

Q How did you happen to become a special deputy?

A Well, that led up over a period of about five months. I complained to Raul Pena, to Roberto Pena, and just about everybody else that I could find in the sheriff's office of vandalism. I [fol.532] kept having things stolen off my tractors in broad daylight. I would leave a tractor for a few hours in a field and I would come back and find a generator and starter and even in one occasion a radiator taken off a tractor out in the field. And I complained extensively about it. I complained to Randall Nye about it. And they all gave me the same answer, "We can't do anything about it. We're doing all we can. We can't patrol

your farm every minute." Roberto Pena indicated that I should be deputized. Raul Pena told me I should be a deputy out there so I could help take care of that property. And that went on for a long period of time. And Sheriff Solis called my office in the latter part of October, about the last week of October, and he contacted my shop foreman who he knows very well—he has known him for many years.

[fol.533] ***

[fol.534] *****

A Yes sir, it started in—

JUDGE GARZA: June of '66?

A June of '66, and that's when I started noticing this vandalism. I didn't take the deputization until November of the same year.

Q BY MR. GURWITZ: All right. What other things happened to your equipment out there?

A We have had sugar poured in the gas tank of my brother's car. We have had one pump—stationary pump—on the other farm completely burned up. We have had I don't know how many flats caused from man-made objects being placed in the road. They were definitely—there was no doubt that they were made because they were automobile valve stems that were ground off on a grinder to a very sharp point. We have taken those out of tires not once but many, many times. 20 or 30 times a week.

Q Did you notice whether or not the incidence of this generally increased after the picketing started [fol.535] on June 1, '66?

A Well, before the picketing started we would have four to half a dozen flats a week on our equipment because we have quite a bit of equipment. After that time, after June 1st—I can't say exactly when it picked up but it did start happening frequently like 30 or 40 times a week. 30 or 40 flat tires a week.

Q Did this also apply generally to the other vandalism you have described?

A Well, that's when most of it—I have always had a little petty theft but anything major was after June 1st.

Q Of '66?

A Of 1966.

[fol.536-586] ***

[fol.587]

RAUL PENA,
having been first duly sworn on oath, testified, as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Please state your name.

A Raul Pena.

Q Where do you live, Mr. Pena?

A I live in Roma, Texas.

Q And is that in Starr County?

A Yes sir.

Q And what jobs do you hold?

A I'm the Chief Deputy Sheriff for Starr County, Texas.

Q How long have you been Chief Deputy?

A About ten years.

Q And how long have you worked as a peace officer?

A It will be 20 years on June 1st next year.

Q How many full time Deputies are in the Sheriff's Office?

A Three.

Q And how many part time?

A About six or seven.

[fols.588-593] ***

[fol.594] *****

Q BY MR. PHILLIPS: Then on this incident on

October 12th Chandler was in a parked car near the pickets, there were a number of them there appealing with the employees of the Rancho Grande Farms, and that [fol.595] you arrived with several deputies, drove the car between the pickets, and then Chandler alleges that he approached and asked why you were there, and then you arrested him. Do you remember the arrest of Chandler?

[fol.596] *****

Q BY MR. PHILLIPS: And what were they doing?

A What?

Q What were the pickets doing?

A Well, they were using a big loud—you know, a microphone, and calling to these peoples.

JUDGE BROWN: What were they saying? Can you repeat some of the things that they were saying?

A Well, they were saying that—(witness speaking in Spanish).

JUDGE BROWN: You have to tell me about that.

JUDGE GARZA: "Don't sell out to these people."

JUDGE BROWN: All right.

A You're breaking our strike, you bunch of son-of-bitches. There were a lot of girls there working, too.

Q BY MR. PHILLIPS: Now, did they use any other [fol.597] profanity?

A Yes sir.

Q What else?

A They called them mother fuckers and everything.

[fol.598] *****

Q BY MR. PHILLIPS: —on November 28th the Union had a rally on the Starr County courthouse grounds.

A Yes sir.

Q And they placed a number of Union banners and flags around the courthouse and you took them down?

A Yes sir.

Q All right, would you tell us what that situation was?

A Well, they put one in the pole where we put the United States flag and I think it was very disrespectful, the place where the United States flag used to be, to be one of their banners there. And I took it down.

Q Well, did they have permission from anyone in the courthouse to place these flags?

A No sir.

Q And where did they place them?

A Sir?

Q Did they hang just one on the flagpole or did they have them all over the courthouse?

A They put one on the flagpole, they put one on the windows facing south of the courthouse.

[fols.599-601] * * *

[fol.602] * * * * *

Q BY MR. PHILLIPS: In this incident, Mr. Pena, you allegedly arrested on January 26, 1967, Reverend James Drake and union member Padilla who were peacefully praying in the courthouse.

A Yes sir.

[fol.603] * * * * *

Q All right. What was the situation at the courthouse on the night of January 26th?

A Well, I was in the Sheriff's Office. It was about 9:30 or 10 o'clock at night when one of the jailers called the Sheriff's Office complaining that there was some peoples outside in the street talking back and forth with the prisoners upstairs on the third floor. And he was very afraid that they might try to break the jail because there were about fifteen or twenty outside of the courthouse. So I went out and investigate the matter and I find that there were about fifteen or twenty members of the Union in [fol.604] the street, but Drake and Padilla, they were in the steps, about half ways going into the courthouse. So I told what they are doing there? They say, "We are praying,

you son-of-a-bitch." That's what they said. And the rest of the peoples in the street, they all were calling me lot of names. And they were calling the jailer names, too.

Q What kind of names?

A Well, all the way from son-of-a-bitch to mother-fuckers.

Q And then what did you do?

A I told them to disperse, to go away. And Padilla and Drake refused. So I placed both under arrest, put them in jail. The rest of the people, they all go home. They all left the place.

Q Did the rest of them leave?

A Yes sir, right away.

Q And left peacefully?

A Yes sir.

JUDGE GARZA: Let me ask you this: Did you hear them praying when you first came out? When they were on the steps, were they praying?

A Not a thing, Judge, no sir.

JUDGE GARZA: They weren't praying?

A No sir, I didn't hear nothing but cuss words from [fol.605] them.

[fols.606-626] * * *

[fol.627] * * * * *

Q Tell me—have you been in Court when we stipulated that you have had some dances out there at the courthouse?

A Yes.

Q Do you keep deputies out there when they have a dance?

[fol.628]

A Where?

JUDGE GARZA: Courthouse.

A Yes, sometimes.

Q BY MR. DIXIE: You know, so as to avoid any trouble?

A Yes.

Q Does the orchestra play when you have those dances?

A No sir.

Q You have an orchestra, a band?

A Oh, yes.

Q You have a band?

A Sometimes. Sometimes they got some record players.

Q Bands and record players? And do they play loud so the people can hear it in the streets?

A Sure.

Q Play loud? Now, don't that music disturb anybody in the courthouse?

A Well, its at night.

Q Its at night?

A Its nobody work there but the sheriff's department and we are used to that.

Q You are used to that?

A Yes.

* * * * *

[fols.629-647] * * *

[fol.648]

REDIRECT EXAMINATION

BY MR. PHILLIPS:

Q Let me ask you, Mr. Pena, you were acquainted with Dimas?

A Yes sir.

Q And Benito Rodriguez?

A Yes sir.

Q Now, why was it that when it was reported that they had a gun did that cause any excitement?

A Because we knew the kind of peoples they are. They both—

Q Go ahead.

A They both dangerous mens.

Q What made you think they were dangerous men?

A Because I knew Dimas. He killed for fun, yes sir.

Q Did you know of any record where he had ever killed anyone?

A Yes sir. Killed a man up—somewhere up north. He been in the State penitentiary for that crime. But he was paroled, his parole was revoked, sent back to the State penitentiary. Then he commit two or three crimes in Starr County, too. He cut and killed for fun. That's the kind of man he is.

Q Any crimes of violence?

A Yes sir.

[fol.649]

Q Do you recall any?

A Well, I remember one time he cut Alejandro Guerra's son with a knife all the way from here to here,

yes sir. That was about—I'll say about five years ago.

Q What about Rodriguez?

A Well, Rodriguez, he's an outsider and his reputation is not too good according to the Department of Public Safety.

Q Did you see a criminal record on him?

A Yes.

[fols.650-654] ***

[fol.655] *****

MANUEL BENEVIDES,
having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Please state your name?

A Manuel Benevides.

[fol.656] *****

Q Now, are you employed by La Casita Farms?

A Yes sir.

Q In what capacity?

A Night watchman.

[fol.657] *****

Q Well, any kind of incidents, anything out of the ordinary, put it.

A One night somewhere about—well, let's say middle June or something like that I was sitting by the west end—mostly sit there because I can see the premises, whole grounds around—and a pickup came around and a man—to me it was a man because I can see because there is some lights around—hold out hand through the window, raise to the top of the cab and start firing. I think he fired six shots and hollered at me.

[fol.658]

Q Well, did you get any phone calls while you were on duty there?

A Yes sir, quite a few until I stop answering that phone.

Q What did they say?

A At first—

MR. DIXIE: Just a minute. We object to that as hearsay. If there is no purported identification of the source of the person who made the phone call.

MR. PHILLIPS: We are not offering this for the truth of any of the matters stated under the phone calls.

red and to show the climate
Merely for the fact they occur the time of the strike.
and the conditions existing at shall be received for that

JUDGE BROWN: It
limited purpose.

ght, sir.

MR. PHILLIPS: All ri

none mostly on account that

A First I answered the pswer the night phone. First
by the company I could anttle later part of midnight,
time, somewhere—let's say le ring so I just went to the
early hours, I hear the phonar the voice say, "We get you
office and pick it up and I he" That's what I hear on the
some time, you son-of-bitch.
[fol.659] phone.

[fol.660] *****

A Later on—I mean alm ost every night they start—I
mean the phone start ringing and I just go pick it up and
somebody start laughing, giggling. I mean making noises to
the phone. Just hand up. They never talk, say anything
more. So I told Mr. Roches ter, the boss there, that I was
going to quit answering the phone for a while. It was
getting on my nerves, you know. Somebody making funny
calls at night.

Q Have you ever gotten any of these calls before the
strike started?

A No.

Q Did you go armed?

A Yes sir, because I got permit for a gun. I mean I'm a Constable. I don't use it anyway but—

Q Now, how long did you stay at the packing shed?

A I stayed until—I think it was about the 5th because the other boy that used to be the night watchman out on the farm got killed in a car accident so they transferred me to the farm because that's the biggest part of the company.

[fol.661] * * * * *

Q All right. Now, did any incidents happen to you while you were out on the farm?

A I can mention one that I remember because it scare me little while. I was riding back from what we call shed number 2—that's up at the river—and I got to go to it to check the pumps, things like that at night, and I stop the car and got off to go look inside a shed and I heard a pop or whatever you want to call it, or a bang, like a whistle—like a bullet going by. Then I start looking around and called back, called the sheriff's department and explained to them somebody take a shot at me, I thought so.

* * * * *

[fols.662-664] * * *

[fol.665] * * * * *

JUDGE GARZA: What did you see out there in connection with Balli?

A That's what I was going to say. I was standing there and I saw a pickup little farther back and there was something going on, and I saw this boy put his hand

through the window, open side the door—and I saw something like that but I don't know what exactly. Maybe he grab it or something through the pickup window. That's all I say.

Q BY MR. PHILLIPS: All right, then what happened?

A I seen arrive while ago and standing little farther [fol.666] where the roads joining together little farther from the entrance and I saw him coming around talking to this Librado, and then a lot of people—say about 12, maybe 15—bunching him. They got him by his arm, by his body.

JUDGE GARZA: Who was that?

A That was another deputy arrived little before that.

JUDGE GARZA: What deputy was that?

A Roberto Pena.

Q BY MR. PHILLIPS: They actually grabbed Roberto?

A They had him. So I left where I was standing and went out there and told the boys leave him alone, they were interfering with the arrest by duly deputy—deputy sheriff—and so Librado told that he would go alone. He would go in his own pickup.

[fols.667-672] * * *

[fol.673] * * * * *

Q All right. Now let's go over a little bit further. And I'm going to refer to 7.17. You filed a complaint against Mr. Nelson in which you allege he threatened the life of a Ranger?

[fol.674]

A Yes sir.

Q All right, would you tell us about that incident? Where were you and where did it happen?

A I was getting ready to leave the sheriff's department office because mostly I go there, like I say, between 8:00 and 12:00. And I was getting close to the door when this man that I know his name was Nelson came out and he was so—I mean mad, whatever you want to call it, angry. And told me—he asked me, he said, "Have you seen that son-of-a-bitch Captain Allee?" I said, "I don't work for him so I don't know where he's at." So he said, "Well, I'm going to tell you something." I said, "Go ahead." I didn't know what he was going to say. So he said, "You tell that son-of-a-bitch that get man off my man because there's going to be some Rangers killed." So I told him—because the other deputy was already right behind me and they all was—the door was little farther—and I said, "Will you repeat it so I can understand what the message is?" Trying to make him repeat it so the other man can hear it. And he repeated about the same words. And then I tell you, "Well, come inside." Trying to get him in the office to the other deputy to arrest him. So he just start [fol.675] running to the hall leading to the both doors. So we just can't catch him. He was gone by the time we tried to grab him or something.

JUDGE GARZA: But the man was to tell Captain Allee to get the men off his men because there would be some dead men?

A I hear he said going to get some Rangers killed or Rangers killed or something like that.

[fols.676-687] * * *

[fol.688]

FEDERICO ELLERT, JR.,
having been first duly sworn on oath, testified, as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Please state your name.

A Federico Ellert, Jr.

Q Can you speak up just a little bit, Mr. Ellert?

JUDGE GARZA: Speak louder so they can hear you.

A Federico Ellert, Jr.

Q BY MR. PHILLIPS: How old are you, Mr. Ellert?

A Sir?

Q How old are you?

A I'm 70 years old.

Q You are 70 years old. How long have you been a Deputy Sheriff?

A For a long time.

[fol.689] *****

Q It's alleged that on October 24th the Union's president Arredondo was among a group of persons that was arrested at the Roma International Bridge and taken after arrest to the Sheriff's Office in Rio Grande City. Do you remember that occasion?

A Yes.

Q And then it's alleged that he joined others in chanting viva la huelga and that you hit him and threatened him with a loaded and cocked pistol at his head. Will you tell us about that incident?

A Well, it happened this way: I was pretty busy there at the office when I heard a big hollering.

JUDGE GARZA: Speak up a little bit louder.

A Well, I heard a big noise hollering and I got out of my desk to see what was going on, and it was a bunch of people in front door and one of the men ahead—it was Domingo Arredondo—I told this man to stop that hollering and don't make any noise, that this [fol.690] was the courthouse, a respectful place. And especially the Sheriff's Department Office. I said, "Will you please be peaceful?" And then I talked to him in Spanish saying the same thing. Then was when Domingo Arredondo jump on me close to my ear and holler as loud as he could viva la huelga. When he got on top of me I shoved him back that way and I went to my gun because there were too men in there.

Q Did you pull your gun out?

A Not much, just little bit. I just got ready. And that was all.

Q Did you hold it or point it at Arredondo?

A No, not at him.

Q Did you point it at anyone?

A I don't remember pointing at any one.

Q Did you ever take it completely out of its scabbard?

A No, not that I know of.

Q All right. I want to ask you about another incident. This would be 7.17. Were you present when Nelson came into the courthouse about May 12th of '67 and talked to Manuel Benavides?

A Yes sir.

Q Could you hear their conversation?

A Yes sir.

Q What was said?

[fol.691]

A Well, it was more or less about five minutes to 12, and Manuel Benavides and myself were sitting on the table up there when Manuel Benavides decided to go eat lunch.

He met on the way coming—on the way going out he met Nelson and Nelson asked Benavides where is Captain Allee.

Q Is that his exact words?

A Not exactly. He use a rough language.

JUDGE GARZA: Well, tell what he said.

Q BY MR. PHILLIPS: Repeat what he said.

A He said, "Where is Captain Allee? Where is that son-of-a-bitch?"

Q All right, then what was said?

A Manuel told him he don't know. Must be here somewhere in town. And then he said, "Well, you tell that son-of-a-bitch that some of his Rangers are going to be killed." I talked to Manuel and I said, "Get that man." But that man run away pretty fast outside of the office.

[fols.692-693] * * *

[fol.694]

S. E. ROGERS,
having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Please state your name?

A S. E. Rogers.

Q Where do you live, Mr. Rogers?

A Live in Nacogdoches, Texas.

Q What is your occupation?

A Assistant Chief Special Agent, Missouri Pacific Railroad.

Q BY MR. PHILLIPS: Were you acquainted with the fact that there was a labor dispute in 1966 and '67?

A Yes sir.

[fol.695] *****

Q And why was the railroad interested?

A Interested in—

Q In the labor dispute.

A In the strike? Well, we had a bridge that was burned. We had someone get on the track and had to be pulled off so we could operate our train.

JUDGE GARZA: Somebody just lie down on the track, wouldn't move?

A Yes sir, yes sir.

Q BY MR. PHILLIPS: Anything else reported to you?

A Well, we had rocks thrown at our cabooses and rocks put on the track, beer bottles and things like that.

Q Anything else? Any other incidents?

A Well, several times they would get on there with their pickets and we would have to have them removed so the crews would operate.

[fol.696] *****

Q Who did you ask assistance from?

A Colonel Garrison.

Q And who is Colonel Garrison?

A He's head of the Department of Public Safety for the State of Texas. He was at that time.

Q And about what time was it that you asked for assistance?

A Sometime in April in 1967. I don't recall the date.

Q Did you get any assistance?

A Yes sir, I did.

Q What was the nature of it?

A Captain Allee and about three or four Rangers or more.

Q Well, what kind of assistance did they give you?

A They kept the tracks clear, kept them off the tracks so we could operate our trains.

Q Now, did they ride the train?

A Some of them did, yes.

Q And how often?

A Most every day.

Q Did they have occasion to remove people from the tracks?

[fol.697] * * * * *

Q BY MR. PHILLIPS: There is an allegation in this case that there were a number of strikers in Mission, Texas, on your railroad track on one occasion.

A Yes sir.

Q Can you tell us about when that was?

A On May 26, 1967, evening.

Q And what happened on that occasion? Were you present? Let me ask you that.

A Yes, I was.

Q And what happened?

A Well, there was, oh, about—several of them got on our tracks as our train was pulling in and they were arrested and removed from the track.

Q Now, were they actually on the track?

A They were standing—yes, where the train probably would have struck them.

Q And was the train there?

[fol.698]

A They got on as the train approached.

Q The train was approaching?

A Yes sir.

Q All right, then what—were the Rangers there?

A Yes sir.

Q How many of your railroad people were there?

A I don't recall. We had about ten men here but I don't recall exactly how many were right there at that time. I'd say about three or four of them.

JUDGE BROWN: Special agents?

A Yes sir.

Q BY MR. PHILLIPS: Now, did you ask any assistance from the Rangers on that occasion?

A Well, yes. I didn't particularly have to ask because we had been working the train all the way from Mission.

Q To keep them open?

A To keep the track open, yes sir.

Q And then what happened when you saw the people all gathered on the track?

A They were placed under arrest and removed from the track.

Q And what happened to them then?

A We carried them to Edinburg.

Q Did you observe these arrests?

[fol.699]

A Most of them, yes. About 11 of them.

Q And were these arrests made by the Rangers or by your men?

A Well, I'd say both.

Q Did you notice any acts of violence on the part of either the strikers or your men or on the part of the Rangers?

A No sir.

Q You were present and could see and observe what was going on?

A Yes sir.

[fols.700-721] ***

[fol.722]

C. R. JOHNSON,
having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Please state your name?

A C. R. Johnson.

Q What is your position?

A Chief Special Agent, Missouri Pacific Railroad.

Q And how long have you been employed by the
Missouri Pacific?

A Nearly 35 years.

Q And you were so employed all during the year
1967?

A Yes sir.

Q Were you present in Mission on the night of May
26, 1967?

A Yes sir.

[fols.723-735] * * *

[fol.736] * * * * *

Q BY MR. PHILLIPS:

anywhere else other than Miss Now, did picketing occur
sion and Rio Grande City?

A They picketed this tr
City. Now I don't know the
the country enough to testi
there they had separated an
but they were back down in
picketed, of course, at Miss
again down—well, practical
places between there and Ha
being on the train, why, th
course. We found one swi
station. they would separate them, of
tch thrown at—oh, the next

JUDGE BROWN: W

which the presence of people
the movement of the train? Was this the only occasion in
e on the track itself obstructed

A This was the biggest o

JUDGE BROWN: Tine that I witnessed, yes sir.

your operation was the pre
line and its effect upon you the most disconcerting thing to
people, I suppose? esence of [fol.737] the picket

r Union Brotherhood operating

A Well, we were conce
dent would happen that m
that's the reason we sent th
engine. That was the thing
erned that possibly some inci-
might cause a train wreck, and

JUDGE BROWN: A
we were concerned with, too.

—ll right.

Q BY MR. PHILLIPS: Now, I don't believe I understood that. Why did you have a car go in front of the train?

A Because if some incident happened like a switch was thrown or, well, like the bridge fire or something like that, they had a radio, they could contact the train and keep it from getting into this thing.

Q Well, had any switches been thrown?

A There was one thrown that night. The next station below Mission. What's the name of it?

Q Alamo, Pharr?

A McAllen. It was a switch into an industry that we had to switch.

JUDGE BROWN: Did they have to break a lock to throw the switch?

A The lock was gone. I don't know where. Maybe it [fol.738] wouldn't be one there. But we always assume there is.

[fols.739-769] ***

[fol.770] *****

TESTIMONY of FATHER SHERRIL SMITH By MR. GURWITZ:

MR. GURWITZ: First one is from the deposition of Father Sherril Smith, beginning on Line 20, Page 25: (Reading)—

Q And the gist of what you were saying to them, as I understood in reply to Mr. Dixie was that they should quit their jobs and join the Union?

A Yes, and to co-operate with their brothers and [fol.771] co-operate in the cause.

Q All right, and if you could have gotten them to walk out, then you would have felt that you had done your job well or not your job—I'm sorry—but what you had come here to achieve?

A Yes.

Q All right. Do you remember—I know that you certainly didn't curse the workers, Father.

A No.

Q But do you remember if you used language that was couched so that it would make them feel bad or ashamed if they didn't join the other people in what you felt was the right thing?

A No.

Q Did you refer to them as slaves or victims or—

A No, I don't remember using words like that. I don't remember but perhaps I used the word esquirol which in Spanish means scab.

Q Scab.

A I might have used that.

Q You might have referred to them as that?

A Yes sir.

Q You don't think that such a word would be intended to make them feel bad or ashamed of the fact that they were working when you felt they should not [fol.772] be working?

A Well, the word taken in its context and the context of the labor dispute is not a real happy word. Let's face it.

Q Father, —

A Let me finish.

Q Okay. I'm sorry.

A Sure, it has got punch to it and an edge to it.

Q And you meant it to?

A Sir?

Q You meant it to?

A Yes.

Q But is there anything context, Father, in which I could call you a scab that you would not feel offended?

A Well, you have got an objective and a subjective reality here. I suppose objectively I might, you know, get my back up about it.

Q Okay. Let's just leave it that you said it has got punch.

A Yes, sure it has.

[fol.773]

Q Why did you pick La Casita?

A Because that was the place where they were trying to make their greatest effort.

Q That was the focal point of the strike, was it not?

A Yes, it was.

Q La Casita?

A It seems as though it was at that time, yes.

[fols.774-782] ***

[fol.783]

CAPTAIN A. Y. ALLEE,
having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q You have been sworn, Captain Allee?

A Yes sir.

Q Will you state your name for the record?

A Alfred Young Allee is my full name.

Q And where do you reside?

A I reside in Carrizo Springs, Dimmit County, Texas.

Q What is your occupation?

A Captain of the Texas Ranger Company D.

Q How long have you been a peace officer, Captain Allee?

A About 43-44 years. Been 38 years Ranger, sir.

Q 38 years in the Rangers?

A Yes sir.

Q And how long have you been Captain of Company D?

A 21 years.

Q What area does Company D cover?

A Pardon?

Q What area of the State does Company D cover?

A We cover practically entire South Texas. All this [fol.784] area from here plumb—from Carrizo Springs all the way down here, of course Uvalde, New Braunfels, San Antonio, Seguin, Goliad, Victoria. We have 39 Counties.

Q And how many men do you have?

A I have at this time Eight men, myself nine. We usually have a full company of ten men.

[fol.785] *****

A Some time in 1966, Judge Phillips. I can't tell you just exact date. But we had a dispute down there and I think—I know I did—I sent Sergeant Denson down there. He was my Sergeant at that time. And I sent him down there to make an investigation at the request of Randall Nye, the County Attorney.

Q Do you usually make investigations of that nature on your own initiative or do your requests usually originate with County officials?

[fol.786]

A Well, we don't usually make them on our own initiative. We usually requested to come in there by some County official.

Q Now, do you know how long you kept Rangers there the first time?

A I kept Rangers there the first period of 1966 off and on—not all the time but ever since I got the first call.

Q All right. Now how did you happen to go down there [fol.787] yourself the second time—the first time that you went? I believe that was in May of 1967.

A Randall Nye and someone else—I don't remember who it was—had gone to Austin and talked to Colonel Garrison, and they requested the presence of the Rangers there until this situation eased. They didn't have adequate number of Deputy Sheriffs to handle the situation and they requested Rangers come in down there.

Q Now, let me ask you this: Do you have what we commonly term a house counsel? That is a lawyer that works for the Department of Public Safety?

A Yes sir, we have counsel up there. He more or less—he preaches on these laws. Name is Norma Suarez, S U A R E Z.

Q Before you went on this occasion, did you make any request of him concerning his opinion as to the validity of Article 5154f?

A I did.

Q Did you make that directly to him or through Colonel Garrison?

A I made it to him and also to Colonel Garrison. I told both of them—Colonel Garrison wasn't too well at that time.

[fols.788-791] * * *

[fol.792] * * * * *

Q BY MR. PHILLIPS: Did you go out to the Rio Grande international bridge?

A I went out later, yes sir. I was called out there. The feared might be some demonstration of some kind there, that they had some workers coming across the bridge from the Camargo side, some green card workers.

Q Well, now just describe the scene you saw at the bridge on that day.

A When I got to the Bridge the bridge wasn't open. I don't think it opened until about 8 a.m. And they opened shortly after that. And these cars, they begin to come across. And Reverand Krueger and

[fol.793] * * * * *

Q You didn't arrest anyone there?

A I didn't.

Q Did you advise?

A Did I do what, sir?

Q Did you advise, counsel union members?

A I didn't counsel the, no sir. Reverand Krueger—and I don't know who else it was—I think Benito Rodriguez was probably there and one or two others whom I didn't know—I hadn't been there long enough to get acquainted with any of them—they told me that the green card workers had their jobs. And I merely told them this, I said, "Now, look" I said, "I don't know. You might claim that and you might not. [fol.794] I don't know anything about this situation, but if any of you people want to work," I said, "I can get you a job to work for a dollar and a

quarter an hour the next ten minutes." That's the only thing I told them. I did tell them that, yes sir.

Q You didn't tell them to abandon their strike?

A No sir, I didn't tell them to abandon their strike. I don't care if they go on with it from now on, as long as its peaceful.

Q In other words, you do not care whether or not they have a union or don't have a union in Starr County?

A That's right. It's immaterial to me as far as union is concerned. I'm not prejudiced against them. They can strike from now until doomsday. I don't care as long as they do it in a peaceful manner.

[fol.795] ***

[fol.796] *****

A I told him that he could picket as long as he picketed peaceful, and so they stood around there a while and I talked—I had called the sheriff's office—I wanted to find out about that property. Mr. Jim Rochester was out there, too, at that time. And I didn't want any trouble to start whatsoever between the pickets and the workers in the field.

Q Well, did you tell the pickets they could or could not call out to the workers?

A I didn't tell them that, no sir.

Q Did you tell them they could or couldn't—

A And so at that time, well, Reverend Krueger, he stepped the distance off. I told him where they should picket, 50 feet apart. And Reverend Krueger stepped it off himself. And the deputy sheriffs—I sent them off to see if they could find Mr. Solis, and they couldn't. And they came back.

[fol.797] * * * * *

Q All right, the next allegation is 7.18, that on May 18th a number of them were peacefully assembled near the entrance to Trophy Farm and you and other Rangers arrested them and jailed them.

A Yes sir, we did. That was on that same road, I think. Same road but it was further up.

Q Will you tell us about that? When you got to Trophy Farms, what—will you describe the scene there?

A Well, they had a loud-speaker on a truck that—the Union worker did—and a loud-speaker on the La Casita truck and it had a record on it, and it was playing back into the United Farm Workers Organizing Committee truck. They trying to block [fol.798] the sound out. They were calling in to the pickets in the field there to come out and join their Union to work.

Q Now, Captain, I don't believe you understood me. I asked you when you first got to Trophy Farms what you observed. What did you see at the time when you first drove up?

A Well, I saw these pickets there.

Q Where were they?

A They were on the road there.

Q Just at the side of the road?

A Side of the road, yes sir.

Q Were they near the gate or away from the gate?

A Oh, no, they were away from the gate.

Q And how close together were they?

A Oh, they were all in a bunch there. They were all in a bunch.

Q What?

A They were all in a bunch there, all of them together.

Q All in a bunch. And about how many of them?

A Oh, I don't know. Maybe 10 or 12, then they were still coming. They kept on a-coming after we got there.

Q Now, how did you happen to go out there on that morning?

[fol.799]

A I got a call on that occasion. The same way I get those calls. And we just went on out there.

Q Asking you to come out?

A Yes sir.

JUDGE BROWN: Could you find out who called?

Q BY MR. PHILLIPS: Who called?

A I just don't know. I don't know who called.

Q But you were told—what were you told?

A I was told that there were more pickets gathering down there on that road and it liable to be trouble. They had these melon knives that they cut the melon off, you know—gather these melons with. And it looked like it might be trouble if the things started.

Q Now, who had the melon knives?

A The workers in the field.

Q Now, what were they saying to the workers in the field? Did you hear them?

A Oh, they were just hollering out, trying to tell them to come out and join the Union there, that they get more money. It was first one thing and another. And told them—(witness speaking in Spanish)—and things like that, you see.

[fols.800-807] * * *

[fol.808] * * * * *

Q BY MR. PHILLIPS: All right, when did you first get Mission, Texas, on the night of the 26th?

A Oh, we got in there that night about the time the [fol.809] train did. I don't know exactly what time it was. I didn't keep a time schedule on that. I imagine it was somewhere around 8 o'clock, maybe a little later. I know the train left earlier than it was supposed to leave.

JUDGE BROWN: Have you come from Rio Grande City?

A Yes sir.

JUDGE BROWN: Or were you—

A Yes sir.

JUDGE BROWN: And was there a rumor out there was going to be some trouble at Mission?

A Yes sir, there was rumor out at Rio Grande City that they were going to lie down on the railroad track there, there at Rio Grande City. So left out a little earlier there and we got into Mission, and so that's when they come on up there.

Q BY MR. PHILLIPS: Well, Captain, during this period of time were you or other Rangers accompanying the train on its run from Rio Grande City to Mission?

A Yes sir, I accompanied the train while I was there. Now I was there a while and some of the Rangers was there and then I would leave them and have some other Rangers come in there.

Q And that was at the request of the railroad?

[fol.810]

A Yes sir.

Q Now, how did you accompany the train? Did you ride on the train?

A Well, sometimes I went in my car and sometimes I rode that high rail car.

Q That was the car in front of the train?

A In front of the train, yes sir.

Q And did they run this car in front of the train practically every trip?

A Did they do what?

Q Did they run this car, this high rail car that you called it, practically every trip in front of the train?

A Yes sir, they ran it every trip in front of the train. They patrolled that track during the day backwards and forwards. Then they would come down and meet the train and it would go in front of the train when it left out loaded.

[fol.811] *****

Q Well, that's not important, Captain. What was the scene—what did you see when you got to the crossing of Conway Street, I believe it is, and—

A Yes sir, Conway.

Q —and the railroad?

A I saw these pickets there. They were there and they came out across that track there and they was trying to block the train from going through. They were going to throw a solid block there of pickets.

JUDGE BROWN: It would help us a good deal, Captain, especially in time, if you would try to give us the details. Now you say they were trying to block the train. It would be easier—where were they, how far apart were they, were they standing with their arms locked? This is what we want to know.

[fol.812]

A No, they weren't standing with their arms locked. They were just all together there.

JUDGE BROWN: On the track itself?

A Yes sir, on the track, plumb across those tracks.

JUDGE BROWN: So the locomotive came on along it would hit them?

A Well, the train would have run over them if they hadn't moved.

Q BY MR. PHILLIPS: Now, Captain, let me ask you something right here. Is that train made up there in Mission after it gets there?

A Yes sir, that train is made up over there in Rio Grande City and it pulled in to Mission.

Q Then what?

A Then they cut loose from that and the crew quits there and then another crew makes up and gets the engine and backs down there and gets that train and pulls on out.

Q Well, now when they switch—do they switch? Did it go across this crossing on Conway Street?

A Yes sir.

Q And then back up again?

A Yes sir.

Q They had to do that to hook-up to the rest of the train?

[fol.813]

A That's right.

Q So that crossing is essential even before the train tries to leave Mission for Harlingen?

A That's right.

Q Now you arrested these people at this time?

A Yes sir.

Q Did you have any—on that first group of 11 people, were there any resistance to any attempt to arrest them?

A I can't hear you.

Q Was there a resistance to your attempt to arrest any of this first—

A There wasn't too much resistance on that particular occasion, no sir. One old boy lay down. I don't remember his name. Jerome Preiss and I, we pick him up and carried him over there and sat his down, and we called for a deputy sheriff's car and they came over there and we lifted him up and put him in the car and they took him on to Hidalgo County jail over in Edinburg.

Q Was there much noise?

A Oh, there was lots of noise, hollering viva la huelga and first one thing and another like that.

Q Were there spectators along that were not taking part?

[fol.814]

A Lots of spectators.

Q These were not taking part in it?

A That's right. Those spectators stayed back. They didn't go on the track.

Q About how many spectators were around?

A Oh, I imagine 75 or hundred, maybe 200. I don't know. Just a fair estimate there I'd say it was a hundred.

Q Were they making any noise?

A No sir, not a word in the world.

Q They were just looking?

A Just looking.

Q And the noise was all coming from the strikers?

A Yes.

Q All right. Then did you arrest everyone at that time that you felt was blocking the railroad track?

A I didn't arrest everyone. If I did I'd have to arrest spectators.

Q I say the ones blocking the railroad.

A Yes sir, all those picketers blocking the railroad track I arrested.

JUDGE BROWN: Was the train stopped at the time you started making these arrests?

A It was coming, Your Honor. It was coming on and it wasn't too far from it.

[fol.815]

JUDGE BROWN: Could you see it?

A Oh, yes, I could see the train.

JUDGE BROWN: Had it stopped to make up-switching some other cars?

A Well, it was coming on through. It was coming on through Monroe Street, what it was doing. The train was

right there at the road. Sam Rogers, he was there and so he wanted the people off the track and he said, "You will have to get off, get on back." And he asked our assistance and we helped him. We arrested them.

Q BY MR. PHILLIPS: All right, how many trains went through there that night?

A Two.

Q Two. And this was the first one?

A Well, this is the first one, engine, yes sir. This is the first train. Then they go down and get another engine, if I understand it right, and another crew and go back down and hook on that train and then leave out with it.

Q All right.

A The second time is when we arrested Reverend Krueger and Adair and Magdaleno Dimas.

Q What about Adair?

A They were there just trying to create another [fol.816] situation when this train pulled out—second train—and trying to get another strike—bunch of pickets out there. And so I saw it wasn't going to work, going to create trouble, and I went over and tried to talk to Krueger, and Krueger told me then, he says—well, same thing—he said, "You have got my men in jail. Why don't you put me in? You have got my men in there. Why don't you put me in?" And that's when I told him, "I'm sure as hell going to accommodate you. That's the second time

you told me that." And that's when Magdaleno Dimas came up there and started talking to me.

Q And what happened with Dimas?

A Waving that hamburger and spitting mustard in my face and every other thing, and I slapped it out of his hand. That's all I did. "You are not going to be spitting in my dern face, I'll tell you that." I didn't like it a bit.

Q Did you arrest him?

A Yes, I arrested him. I didn't—one of the other rangers did. I think they arrested Mrs. Krueger and I think Adair was arrested. I don't know who else was arrested. They were taken to Hidalgo—

Q All right. Now it was at your direction that Adair was arrested?

[fol.817]

A Do what?

Q Did you direct anyone to arrest Adair?

A I didn't direct anyone to arrest Adair, no sir. I had Krueger on the belt and taking him to the car.

Q Did you direct anyone to arrest Mrs. Krueger?

A No.

Q You didn't ask anyone to do that?

A Not that I know of. If I did, I don't remember. But I'll take the blame for it. I'm the Captain. What difference does it make? Whatever they did met my approval, I'll say that.

Q But it wasn't necessarily your direction?

A No sir. But I'm sure behind them. If they had reason to arrest her, well, I'm behind them.

Q All right, then let's go on over to the night of June 1st. Where were you on the night of June 1st?

A I was in Mission on the night of June 1st. I was there, I guess, until about—I don't know what time it was—around 10:00-10:15.

Q And then where did you go?

A Well, I was talking to a party there getting some information, and I had my radio temporarily turned off. I had been out of service some 45 minutes. So when I turned it on, well, I heard Rio Grande City calling Unit 6 and Unit 16, my Sergeant over there, [fol.818] trying to talk to them—did talk to them—so he heard the information and told him they wanted me back in Rio Grande City soon as I could get there, that Magdaleno Dimas had been seen down there with a gun—excuse me, my throat's dry—early part of the afternoon.

JUDGE BROWN: Get him some water, please.

JUDGE GARZA: Just a minute, Captain. He will get you some water.

CAPTAIN ALLEE: That's all right. It will be all right.

A And he told me what it was, that Magdaleno Dimas was seen at the La Casita shed with a gun early part of the afternoon.

Q BY MR. PHILLIPS: Well, now why did that cause any excitement?

A Sir?

Q Why did that cause any excitement?

A Well, I don't know until—and they wanted me back down there as quick as they could. After I could get there, then I'll tell you.

Q All right, did you know Magdaleno Dimas?

A Yes, I knew Magdaleno Dimas. I knew of him. I had a file—his record is in my office for I don't know how long. I think you have got it over there some-[fol.819] where. I have known Magdaleno Dimas.

Q And you were aware of his record?

A Yes sir, I was aware of his record. I was aware of him. I knew what he would do. Because I knew what he was capable of doing. I knew what he would do for a quarter or anything, I mean.

Q You did consider him dangerous?

A I considered him dangerous, yes sir.

Q And why?

A And why?

Q Yes.

A Because he had killed a man down there at Floresville, and, by George, attempted to kill another and they had given him five years, I think, in the penitentiary—three years—and they gave him two years suspended sentence on the other and it ran CC. That's the only think I know. Magdaleno got a 2-page record there for various things that he has done. He spent a year over here in the County jail at Starr County. He has been picked up for smuggling aliens. I think he was tried right here in this Court for that, if I'm not mistaken.

JUDGE GARZA: He's one of my probationers.

CAPTAIN ALLEE: Sir?

JUDGE GARZA: He's one of my probationers.

[fol.820] * * * * *

A Rochester. And he said he came back in the car, he [fol.821] and Benito Rodriguez, and they had a .22 across their lap. He said he attempted to raise that gun up, and he said he told me last November, he said, "I'll get you, you son-of-bitch," and said, "Hell, he's going to kill me. I'm going to ask for a damn Congressional investigation of this if something isn't done."

And I said, "Well, now we will find him. By gosh, we will find him."

I went out there and talked to Raul and Roberto Pena, and I said, "You all go one way and I'll go look another," and so we started out hunting him. So I went to the Union Hall. I saw William Chandler there, and I saw this boy Alejandro Moreno—I think his name was—young fellow—I didn't know what his name was at that time, and tell you the truth I didn't learn it until today—didn't really learn what it was. Even filed a complaint on him that night but didn't remember it. And so I got out of the car and asked William Chandler, I said, "I want to know where this Magdaleno Dimas is."

MR. DIXIE: Did you tell him why you were looking for him?

A Yes sir. I said he had a gun. He was at the packing shed and he threatened Jim Rochester. And so he said, "I don't know where he is, I haven't seen him. [fol.822] I don't know where he is." He was just as unconcerned as that doggone lamp sitting up there.

And I got back in the car. I wasn't drunk that time either. They claim I was but I wasn't. And so I said, "Pull on around the corner. Drive up there about half a block and pull off your lights and leave your motor running. We are going to find this Magdaleno Dimas."

They pulled up there and cut off his lights and wasn't long here come William Chandler and this Moreno boy, the one with the little mustache.

JUDGE GARZA: He's sitting over there.

A He didn't have that bigote, I don't think, then. And so, sure enough, little bit, well, here come William

Chandler in this little old Studebaker, and I said, "Just follow, don't turn on your lights." And he followed him. Went up to Cathy Baker's.

JUDGE GARZA: Who is Cathy Baker? Nobody ever said.

A Well, Cathy Baker is a girl, when this Union came in, United Farm Workers Organizing Committee—as far as I know—other than that I don't know, but she was very active in this Union. And she later married this Benito Rodriguez. She's living with him over in San Antonio now, or if he isn't in the penitentiary. [fol.823] He's probably up there. He got caught with marijuana.

And so they got out and went up to the door—William Chandler did. So he called to this Dimas and he came out of the door with a gun in his hand. I told Kyle, I said, "Just turn on your lights."

JUDGE BROWN: Who was with you, Captain?

A Kyle Dawson. I said, "Turn on the lights of your automobile," and so he did. And so Magdaleno Dimas, he dropped the doggone gun and broke and run. I could have killed him if I wanted to but I didn't want to kill him. Didn't want to hurt him. I could have shot him three or four times before he got in that door if I was that kind of feller. I didn't want to.

I hollered at him, told him he was under arrest. "We didn't do it." I said, "Where's the gun, what did he do with it?" He said he threw the gun down. Then this Jim Chandler said, "The gun is laying over here by us." He

said, "It's right here, laying right here by the car." I said, "Pick it up." They wouldn't pick it up. I did—I picked the thing up.

I said, "Now you and Alejandro get in my car." They got in the car. I didn't poke him with the shotgun. He got in. I didn't poke him. He sit [fol.824] there. I radioed in for Raul Pena and told them to come down there, get me a search warrant, that I had this Magdaleno Dimas located and I wanted to get him out of the house. And so I guess more than 30 minutes before they showed up there, and so I told Judge Lopez—they had him with them. I said, "All right, you—

Q BY MR. PHILLIPS: Can you speak up just a little bit, Captain?

A "Is it all right to go get him?" And he said yes. And so I went in the house and got him. The first thing we did—it was a subject by the name of Castillo—I called to him myself first time and told him to open the door but he wouldn't—and he wouldn't do it. And then there's a subject by the name of Castillo, I think was his name, that was sleeping in the backyard on a cot. And he came around there and he knew Magdaleno Dimas so well that he called him several times and told him Rangers wanted him. And so didn't come out there, and I said, "Judge, will it be all right to kick this door down?" He said, "All right, go ahead."

Q Well, did you tell him he was under arrest?

A Who?

Q Dimas?

[fol.825]

A After I got in the house, I did. I tried to tell him that out there on the porch, yes sir. He heard it. Couldn't keep from hearing us.

Q All right. Did you know that anyone else was in the house with him?

A At that time?

Q Yes.

A Yes, I knew somebody had been in there because we could see them walking back and forwards through the window. I knew this Cathy Baker was in there. Knew that.

Q How about Benito Rodriguez?

A And knew Benito, right. You could see through the window that they were in there.

Q Did you know the reputation or background of Benito Rodriguez at this time?

A Benito Rodriguez been picked up several times in San Antonio. Charged first one thing and another. I think he was charged with assault with intent to murder. I think he was charged with trying to traffic marijuana. Been charged with carrying brass knucks. I think was charged with carrying a dagger, and first one thing and another.

Q Would you consider him to be dangerous?

A I considered him to be dangerous, yes sir.

[fol.826]

Q All right, did you have any fear when you kicked the door of the house in?

A I didn't have no fear. No use me to lie to you. No, I wasn't scared of him. If I was I wouldn't kicked that dern door down. I don't want to get shot, naturally not. I don't want to get shot. But I had whole lot—if anybody going to get killed, it wasn't going to be me. I'll be perfectly frank with you.

Q Now, you were armed—how were you armed?

A I had a pistol—I don't know whether I was carrying .45 automatic then or single-action. I usually carry that single-action.

Q Did you have a shotgun?

A Yes sir, I had a shotgun in my hand. I kicked the door down. I think Tyle Dawson behind me. I think Raul Pena was there—I don't know whether Roberto Pena—he came in later—and got in the living room.

Q Now just a minute. Let me interrupt you, Captain. Was this a double-barrelled shotgun?

A No sir, single-barrel, automatic.

Q Automatic?

A Yes sir.

Q All right. Now tell us what happened in the house.

[fol.827]

A Got in the house and we went through to the living room. Didn't see anything in there. We turned to the left and went in the bedroom. Wasn't anything there. I opened another little old door that had a barrel blot on it—it wasn't latched from the outside—and so I opened it and there was Benito Rodriguez sitting at the table like this. I said, "Put your hands on the table. Didn't do anything. They didn't move. Did

cance?

Q Now, did that have any significance?

A I didn't know whether they had a gun under there or what they had under there but I wasn't going to take any chances.

pistol drawn at that

JUDGE BROWN: Was your pistol drawn at that time?

, Your Honor, yes.

A I had this shotgun in my hand, Your

JUDGE BROWN: Shotgun?

A Yes.

ou have shot them at

Q BY MR. PHILLIPS: Could you tell me what happened at that time?

A I had the shotgun at that time and they didn't move and didn't get up. And I just rapped it up side of the head, [28] didn't hit him too hard. I [fol.828] I wanted to or I could have broke his neck if I wanted to. I didn't know, just under arrest, and I hit to be truthful, but I told him he was und

him with that shotgun. He pushed back against the wall, he got up, he and Benito hit that door at the same time and fell down and they both trying to get out of there at the same time.

And Raul Pena and Roberto Pena, they were there. They took Magdaleno Dimas and Benito Rodriguez and put them in the car and went to the courthouse with them.

Q Well, now was Ranger Dawson in there with you at that time?

A Yes, he was with me.

Q And where was he in relation to where you were standing?

A He was right behind me.

Q And how was he armed?

A Do what?

Q How was he armed?

A I think he had a shotgun, a rifle, pistol—I don't know what he had. That's what we usually carry in our car. I wasn't in my car that night but it was a shotgun in this car and I just picked [fol.829] it up.

Q All right. Now, Captain, let me ask you if at any time that you were making any of the arrests that you mentioned or at the time that you went in to arrest Dimas, were you doing so with the intent to destroy this Union?

A I wasn't doing it with the intent to destroy this Union. When I went in to arrest Magdaleno Dimas—I never made an arrest at any time to destroy the Union. I made the arrest of Magdaleno Dimas and Benito Rodriguez trying to prevent a killing or trouble.

Q All right. Were you at any time acting to try to stop their picketing altogether?

A No sir. I don't care. Just like I say, I don't care how much they picket. I never have tried to stop their picket altogether. As long as they picket peacefully 50 feet apart, I don't care.

Q Have you ever agreed with any of the growers up there to try to break up this Union?

A No sir. No sir, I never have.

Q Have you consulted with any of them in any manner on how Union activity might be stopped?

A I haven't talked to them in any manner about Union activity at all. I did have a cup of coffee with

[fols.830-846] * * *

[fol.847] * * * * *

Q Now then, the way you administered this law, you take like 7.18J, those fellows there bunched up within 50 feet of each other, they are violating the mass picketing law right there, aren't they?

A They were arrested.

Q I say that's the way you administer the law?

A Yes.

Q And then 7.18H, there's another bunch of them, they are violating it?

A They are violating it again.

Q And here is—that was 7.18H—and here is another 7.18H—I don't know how we got both of them but that is more violation there, isn't it?

A That is more violation.

* * * * *

[fols.848-898] * * *

[fol.899] * * * * *

JACK VAN CLEVE,
having been first duly sworn on oath, testified, as follows:

DIRECT EXAMINATION

BY MR. CROW:

Q State your name, please, sir.

A Jack Van Cleve.

Q How are you employed, Mr. Van Cleve?

[fol.900]

A By the Texas—State of Texas, Texas Ranger.

Q And how long have you been so employed?

A Eleven years.

Q As a Texas Ranger?

A Yes sir, I've been a peace officer since 1946.

Q All right, sir. Where were you before you became a Texas Ranger?

A I was Deputy Sheriff in LaSalle County.

Q Mr. Van Cleve, directing your attention to the morning of May 11th, 1967, were you stationed on duty at Rio Grande City at that time?

A I was.

Q And prior to 8:00 o'clock that morning had you been to the international bridge at Roma, Texas?

A I had.

Q And what were you doing on that occasion?

A We had information there was a large number of pickets over there and we drove over there to prevent any trouble.

Q And was there any trouble?

A Not at that time, not at the bridge.

Q All right, sir. And then did you leave the bridge?

A Yes, we did.

Q What time did you leave?

A It was just breaking light.

[fol.901]

Q This was in May?

A Yes sir.

Q All right, sir. Then where did you proceed after you left the bridge?

A We started back to Rio Grande City and we followed a bus and a car that was going—they were in front of us. One of these La Casita buses.

Q Why were you following the bus?

A We thought that some of these people might stop these folks on the bus and we were just going to follow it down the road to see whether or not it was stopped.

Q All right. And did as a matter of fact anyone try to stop the bus?

A It was a car—I believe it was a stationwagon with three or four people in it. Would drive in front of this bus in a manner where the bus would have to slow down five or ten miles an hour, and in one instance I believe the bus passed it and as the bus would stop and pick up these workers that was standing along the road, the car would stop and wait for them, and after about the third one of these incidents—I was with Frank Harger—he was driving the car—and Mr. Dawson was in the back seat—we stopped the occupants in this car.

Q All right, sir. Now at the time you stopped it, was [fol.902] it still dark?

A Some of the cars still had their lights on. It was just breaking day. I imagine it was around 6:30 in the morning. Somewhere like that. I didn't look at the time.

Q Was there any traffic on the highway?

A There was lots of traffic going both ways.

Q Who were the occupants of the car that you stopped?

A This Diaz was in the car, was the driver of the car, and Reverand Krueger was in the back. I believe it three. Maybe three or four people in the car besides these two. I'm not—don't remember the number exactly.

Q Did you see the occupants of that car get into the car?

A Yes sir, at the bridge, I did.

Q And what occurred at that time?

A Reverand Krueger called some of those people—motioned to them and hollered and they went over and got in the car and left.

Q You followed it?

A Yes sir.

Q Now, did you call any of the occupants out of the car?

A When we stopped it we asked the driver to get out [fol.903] and asked him for his identification. He didn't have none on him. We searched and couldn't find none on him. And he stated that he didn't have a driver's license.

Q Did anyone else get out of the car?

A Reverend Krueger got out there when we asked the driver of the car to get out. I believe he was sitting in the middle of these people in the back, and he crawled out.

Q And what did Reverend Krueger have to say, if anything?

A I don't remember exactly what he had to say but we told him to get back in the car, that we were questioning this man.

Q And was it at that time that Captain Allee arrived on the scene?

A Yes sir, he did.

Q And how long had you been stopped when he arrived?

A Oh, just a very few minutes.

Q And did you explain to him what had transpired?

A Yes sir, we did.

Q And did he instruct one of you to take him on to Rio Grande City?

A I don't know whether he instruct him to or not but Ranger Dawson and Ranger Harger took him in to [fol.904] Rio Grande City and I went with Captain Allee.

Q You say there was lot of traffic on the road?

A Yes, there was.

Q Did you consider this dangerous conduct on the part of the driver?

A It was. It was traffic hazard and that's the reason we stopped him. We don't ordinarily work traffic. Its not under our line of business.

JUDGE BROWN: Tell me, just in a factual sort of way, what was this car, the Diaz car doing with respect to this bus?

A Sir, it would get up in front of the bus and slow down in a manner where this bus would, ordinarily driving 30 or 40 miles per hour, it would slow down where ther bus have to get down to almost 5 or 10 miles an hour. And one instance the bus pulled out and passed, then the car passed him again and slowed down in front of him again.

JUDGE BROWN: But it did not appear to be trying to drive him to the ditch or to the shoulder?

A No, he wasn't on the side driving in the ditch. He was just interferred with his travel, the way I seen him. He was interferred with the—

JUDGE BROWN: With the speed of the car.

[fol.905]

Q BY MR. CROW: Is there a statute on that?

A Yes, there is for—yes.

Q Did you have any tickets in your car which you could issue to him?

A No, don't issue tickets. As I said we don't ordinarily work traffic. Only where somebody is driving in such a manner that it would endanger his life or the life of someone else that we take in custody and we generally turn him over to the local authorities or Highway Patrol.

Q All right, sir. Now you say that Ranger Harger and Dawson went on in to Rio Grande City, is that correct?

A That's correct.

Q And you went with Captain Allee?

A Yes sir.

Q And where did you go?

A We went down to the bridge at Rio Grande City, where the International Bridge is down there between—I believe its Camargo. Isn't it Camargo?

JUDGE GARZA: Yes.

Q BY MR. CROW: What did you see when you got there?

A When we first got there we saw bunch of these— [fol.906] some pickets standing outside—there's a building there, Custom building and then there's a cyclone wire fence around. They were outside of this fence standing there. Captain Allee and I went on in and I don't believe the bridge was open at that time. And little while after that the cars started coming across and these people out here stopped them on the road. And we drove up there and cleared the road of these people.

Q How did they stop them?

A They were out in front of the car and it was one man had a red flag with a black bird, which I believe it is a Thunderbird, if I'm not—I believe that's what's on this flag—had it dropped over the windshield of that car on the driver's side. Had it on a stick.

Q Could the driver see?

A Sir?

Q Could the driver see?

A No sir, they couldn't and they were shouting something at him. I don't know what they were saying. Whole bunch of talking at the same time. 15 or 20 people there.

Q Did you recognize any of the people that were there in this courtroom?

[fol.907]

A Reverend Krueger was there and Lopez was there and Eugene Nelson was there. That's the only ones I

recognize right now in the courtroom. There might be some more of them now but that's the only one that I remember.

Q All right. So they had the car blocked and they had the flag over the windshield on the driver's side of the automobile. You told them to get out of the road, is that right?

A That's correct.

Q And did they in fact move?

A Yes sir, they got back off the side of the road.

Q All right, and then what happened?

A Captain Allee was engaged in conversation with Eugene Nelson and one or two other men that I don't know, and during this time it was another car—it was a light colored car—I believe to be an old Buick, about a '59—I'm not too good on these cars—came across the bridge with several people in it, and this time Reverend Krueger and this Lopez, David Lopez, started walking out behind Captain—Captain was standing on the edge of the shoulder of the road and these people were here talking to him—it's a narrow road there. I told them to get back off the road [fol.908] and clear the road, and when they didn't I put my hands on each one of them's chest like this and walked them back to the crowd and told them to stay there. I didn't—

Q You put your hands on each of their chests?

A Yes sir, and walked about three or four steps backwards.

Q At the same time?

A Yes sir.

Q And you pushed them back?

A Yes sir, I just pushed them back and told them to get off the road.

Q As you were walking, you said?

A I taken about three or four steps forward and they taken about the same number of steps backward.

Q Now, you heard the testimony of Reverend Krueger concerning this occasion, did you not?

A No sir, I don't believe I did.

Q You didn't hear him describe what transpired?

A I understand he said that I shoved him with tremendous force but I didn't use that.

Q I think he said tremendous force. Did you consider that you were pushing him with tremendous force?

A No sir, I didn't push him hard.

[fols.909-1027] ***

Plaintiffs' Exhibit 7.3A

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS:**

I, Raul Pena, do solemnly swear that I have good reason to believe and do believe and charge that heretofore, on or about the 12th day of October, A. D. 1966, and before the making and filing of this complaint, in Justice of Peace Precinct No. 1 in the County of Starr and State of Texas, W. L. Chandler, Jr. did then and there unlawfully go into and near a public place to-wit: U. S. Highway No. 83 there situate and did then and there unlawfully use loud and vociferous language, and obscene language in a manner calculated to disturb the inhabitants of such public place, against the peace and dignity of the State.

(Signed) Raul Pena

Sworn to and subscribed on this 12th day of October,
A. D. 1966.

(Signed) Frank R. Nye
Co. Atty. Starr County, Texas

Plaintiffs' Exhibit 7.5AE AUTHORITY

TEXAS:

IN THE NAME AND BY THE AU

OF THE STATE OF TEX. authority of this day

Pena WHO AFTER

BEFORE ME, the undersigned auth oath deposes and says personally appeared Roberto C. Pere and does believe and BEING BY ME DULY SWORN, on oatbout the 3rd day of (that he has good reason to believe an he making and filing of charge) that heretofore, on or about tarr and State of Texas, November, A.D. 1966, and before the md there unlawfully and this complaint, in the County of Starr as did participate in and one William L. Chandler did then and thg and by establishing a willfully, acting concert with others did of the Missouri Pacific abet a secondary strike by picketing an temporary stoppage of picket and pickets at the premises of t employer, the Missouri Railroad Company which caused a tem to labor dispute existed work by two employees of said empl Missouri Pacific Railroad Company where no laf said Missouri Pacific between said employer, the Missouri stoppage by said two Company, and the employees of said pute to which such two Railroad Company; said temporary sto t the peace and dignity employees resulted from a labor dispute employees were not parties, against the of the State.

rt C. Pena

re me this 9th day of

(Signed) Robert C.

Sworn to and subscribed before m November, A.D. 1966.

k R. Nye

ney, Starr County, Texas

(Signed) Frank R. I
County Attorney, S

Plaintiffs' Exhibit 7.5B

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS:**

I, Frank R. Nye, Jr. County Attorney of Starr County, in said State, on the written affidavit of Roberto C. Pena a competent and credible person herewith filed in the County Court, in the County of Starr and the State of Texas do present unto said court that on or about the 3rd day of November, A.D. 1966, and before the making and filing of this information, in the County of Starr and the State of Texas, one William L. Chandler did then and there unlawfully and willfully, acting concert with others did participate in and abet a secondary strike by picketing and by establishing a picket and pickets at the premises of the Missouri Pacific Railroad Company which caused a temporary stoppage of work by two employees of said employer, the Missouri Pacific Railroad Company where no labor dispute existed between said employer, the Missouri Pacific Railroad Company, and the employees of said Missouri Pacific Railroad Company; said temporary stoppage by said two employees resulted from a labor dispute to which such two employees were not parties, against the peace and dignity of the State.

(Signed) Frank R. Nye
County Attorney Starr County, Texas

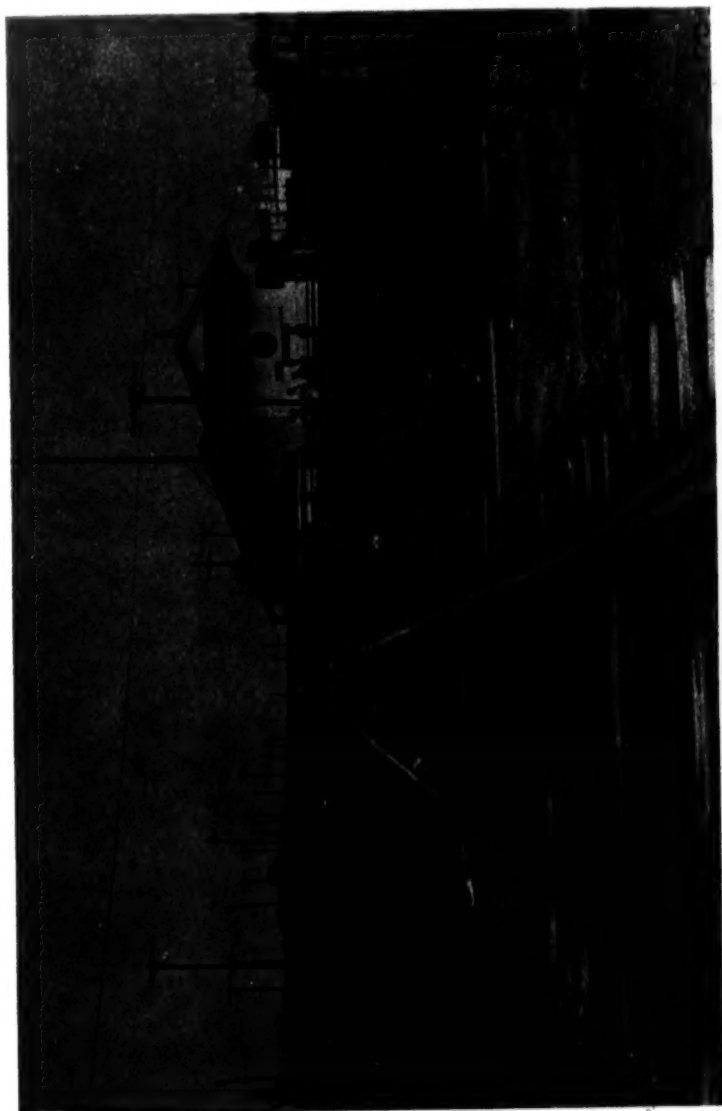
Plaintiffs' Exhibit 7.24



Plaintiffs' Exhibit 7.5C



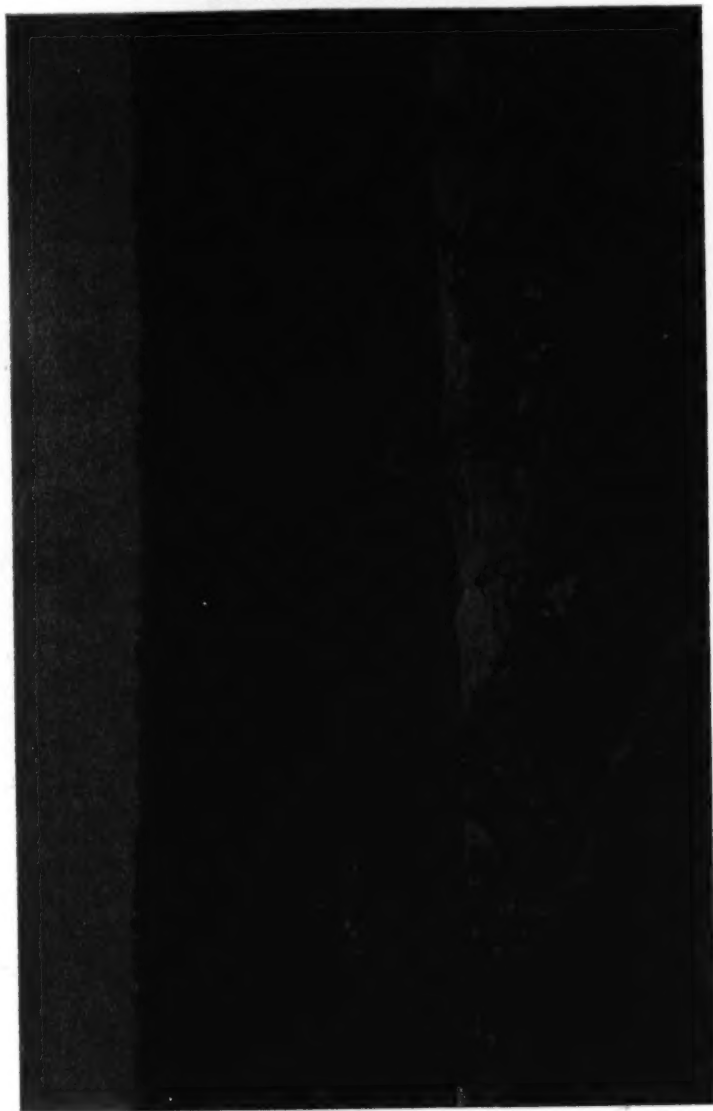
Plaintiffs' Exhibit 7.5D



Plaintiffs' Exhibit 7.1 1B



Plaintiffs' Exhibit 7.13B



Plaintiff's Exhibit 7.17F



Plaintiffs' Exhibit 7.18H

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS:**

I, Cruz M. Tijerina, Assistant County Attorney of Starr County, in said State, on the written affidavit of Onas Brand a competent and credible person herewith filed in the County Court, in the County of Starr and the State of Texas do present unto said court that on or about the 18th day of May, A.D. 1967, and before the making and filing of this information, in the County of Starr and the State of Texas, one Maria Guadalupe Saenz did then and there unlawfully and willfully: did in concert with others, engage in mass picketing in that this Defendant and Domingo Arredondo, Donato Bazan, Librado de la Druz, Victor Valadez and Magdaleno Dimas were then and there picketing within a radius of fifty feet of the entrance of Trophy Farms and within fifty feet of each other against the peace and dignity of the State.

(Signed) Cruz Tijerina
Ass't. County Attorney
Starr County, Texas

Plaintiffs' Exhibit 7.18L



Plaintiffs' Exhibit 7.20A

Order to Detain

No. 2039 D

Hidalgo County Jail, Edinburg, Texas

[NAME] Medrano, Franco Franciso; (Date) 5-26-67; (Hr.) 10:25 P.M.; (Plc. of Arrest) Mission; [OFFENSE] Unlawfull Assembly; (Booked to) Harger; [DESCRIPTION:] (Age) 46; (Place of Birth) Dallas, Texas; (Date of Birth) 8-2-20; (Race) W.; (Ht.) 5-11; (Wt.) 230; (Eyes) Brn; (Hair) Blk; (Sex) M; (Personal Property) \$41.20 Mex.; (Amount Money) \$32.02; (Jewelry) Keys, W/W; (Weapons) 2-Wallets.

I hereby authorize sheriff or jailer of Hidalgo County or his authorized representative to open all mail and packages directed to me as long as I am a prisoner in said jail.

(Signed) F. F. Medrano

(Signed) Frank Harger
Sig. of Arresting Officer

826 16th N.W.
Add: Washington, D.C.
File No. T-816

IN THE NAME AND BY THE UNDERSIGNED authority, on this day
OF THE STATE OF S. A. Rogers WHO AFTER BEING
BEFORE ME, the undersigned believe and does believe and charge)
personally appeared S. A. Rogers or about the 26th day of May, A.D.
BY ME DULY SWORN, on oath of the making and filing of this complaint,
has good reason to believe and did algo and State of Texas, DOUGLAS
that heretofore, on or about the R ALLEN KRUEGER, ESTHER
1967, and before the making and EGER and MAGDALENO DIMAS
in the County of Hidalgo and State ter called defendants, acting in concert
ADAIR, EDGAR ALLEN did then and there participate in
GUEVARA KRUEGER and lg, in that said defendants, acting in
GUERRA, hereinafter called defearm Workers Organizing Committee, an
with each other, did then amen and there station themselves at and
secondary picketing, in that said Missouri Pacific Railroad Company, a
behalf of United Farm Workers Cnployer, and did then and there apprise
organization, did then and there as, banners and word of mouth of the
near the premises of Missouri Pacor dispute at and near the premises of
corporation and employer, and diere in fact no labor dispute existed
the public by signs, banners andoyer and its employees.
existence of a labor dispute at a
said employer where in fact n SECOND COUNT
between said employer and its em

SECOND COTHER deposes and says that he has good and does believe and charge that on or

AND THE SAID AFFIANY of May, 1967, and before the making
AFORESAID, further deposes as complaint, in the County and State
reason to believe and does belie-AS ADAIR, EDGAR ALLEN KRUEG-
about the 26th day of May, 196EVARA KRUEGER and MAGDALENO
and filing of this complaint, in
aforesaid, DOUGLAS ADAIR, E -227-
ER, ESTHER GUEVARA KRUE

(Plaintiffs' Exhibit 7.20C, continued)

DIMAS GUERRA, hereinafter called defendants, acting together, did then and there participate in a secondary boycott, in that said defendants, did then and there take concerted action to cause injury and damage to Missouri Pacific Railroad Company, a corporation, for whom they were not employees, by acting in behalf of United Farm Workers Organizing Committee, an organization, and then and there stationing themselves at and near the premises of Missouri Pacific Railroad Company, a corporation, and apprising the public by signs, banners and word of mouth of the existence of a labor dispute at and near said premises, and by standing along and upon the roadway of said corporation's train, thereby interfering with and attempting to prevent the free flow of commerce conducted by said Missouri Pacific Railroad Company, a corporation, against the peace and dignity of the State.

(Signed) S. A. Rogers

Sworn to and subscribed before me this 29th day of May, A.D. 1967.

(Signed) Oscar B. McInnis
Criminal District Attorney,
Hidalgo County, Texas

Plaintiffs' Exhibit 7.21C

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS:**

BEFORE ME, the undersigned authority, on this day personally appeared Raymond Rochester WHO AFTER BEING BY ME DULY SWORN, on oath deposes and says (that he has good reason to believe and does believe and charge) that heretofore, on or about the 31 day of May, A.D. 1967, and before the making and filing of this complaint, in the County of Starr and State of Texas, one Domingo Arredondo did then and there unlawfully and willfully engage in mass picketing as defined in Article 5154d, Revised Civil Statutes of Texas, 1925, against the peace and dignity of the State.

(Signed) Raymond Rochester

Sworn to and subscribed before me this 31 day of May,
A.D. 1967.

(Signed) Brejedo S. Lopez
Justice of the Peace Pct. 1
Starr County, Texas

Plaintiffs' Exhibit 7.23A

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS**

THE STATE OF TEXAS IN JUSTICE COURT
County of Starr Precinct No. 1

Before Me, the undersigned authority, this day personally appeared S. A. Rogers who, after being sworn, upon oath deposes and says (that he has good reason to believe and does believe and charge) that one William Chandler, Irene Chandler, and Horacio Perez Carrillo on (or about) the 31st day of May, A.D. 1967, and before the making of this complaint, in Starr County, and State of Texas, did then and there unlawfully and wilfully did then and there engage in mass picketing in that each of them while acting as a picket, they being two or more, did picket at one time within fifty feet of each other, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State.

(Signed) S. A. Rogers

Sworn to and subscribed before me, this 1 day of June,
A.D. 1967.

(Signed) Brijedo S. Lopez
Justice of the Peace, Precinct No. 1,
Starr County, Texas.

Plaintiffs' Exhibit 7.24B

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS**

THE STATE OF TEXAS, IN JUSTICE COURT
County of Starr Precinct No. 1

Before Me, the undersigned authority, this day personally appeared S. A. Rogers who, after being sworn, upon oath deposes and says (that he has good reason to believe and does believe and charge) that one William Chandler, Irene Chandler, and Horacio Perez Carrillo on (or about) the 31st day of May, A.D. 1967, and before the making of this complaint, in Starr County, and State of Texas, did then and there unlawfully and wilfully did then and there engage in mass picketing in that each of them while acting as a picket, they being two or more, did picket at one time within fifty feet of each other, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State.

(Signed) S. A. Rogers

Sworn to and subscribed before me, this 1 day of June,
A.D. 1967.

(Signed) Brejedo S. Lopez
Justice of the Peace, Precinct No. 1,
Starr County, Texas.

Plaintiffs' Exhibit 7.24C

**IN THE NAME AND BY THE AUTHORITY
OF THE STATE OF TEXAS**

THE STATE OF TEXAS, IN JUSTICE COURT
County of Starr Precinct No. 1

Before Me, the undersigned authority, this day personally appeared S. A. Rogers who, after being sworn, upon oath deposes and says (that he has good reason to believe and does believe and charge) that William Chandler, Irene Chandler, and Horacio Perez Carrillo on (or about) the 31st day of May, A.D. 1967, and before the making of this complaint, in Starr County, and State of Texas, did then and there unlawfully and wilfully did establish themselves as a picket and pickets at and near the premises of the Missouri Pacific Railroad Company, an employer, where no labor dispute dispute existed between such employer and its employees contrary to the statutes in such cases made and provided, and against the peace and dignity of the State.

(Signed) S. A. Rogers

Sworn to and subscribed before me, this 1 day of June,
A.D. 1967.

(Signed) Brejedo S. Lopez
Justice of the Peace, Precinct No. 1,
Starr County, Texas.

The opinion of the court was included and is printed commencing at page 33 of the Jurisdictional Statement. The Memorandum and Order of the court was included and printed beginning at page 87 of the Jurisdictional Statement. The Final Judgment was included and is printed at page 94 of the Jurisdictional Statement.

[fol.F]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO MEDRANO,
KATHY BAKER, DAVID LOPEZ,
GILBERT PADILLA, MAGDALENO
DIMAS, BENJAMIN RODRIGUEZ,
and UNITED FARM WORKERS
ORGANIZING COMMITTEE,
AFL-CIO

Plaintiffs

vs.

CIVIL ACTION NO. 67-B-36

A. Y. ALLEE, JACK VAN
CLEVE, JEROME PREISS,
T. H. DAWSON, DR. RENE
SOLIS, RAUL PENA,
ROBERTO PENA, JIM
ROCHESTER, B. S. LOPEZ,
and S. H. DENSON,

Defendants

BEFORE BROWN, Chief Judge of the United States Court of
Appeals, GARZA, District Judge, and SEALS, District Judge.

NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES

I.

Notice is hereby given that A. Y. Allee, Jack Van
Cleve, Jerome Preiss, T. H. Dawson, and S. H. Denson,
Defendants in the above numbered and entitled cause,
hereby appeal to the Supreme Court of the United States

from the final judgment entered in this cause on December 4, 1972. Said judgment refers to and is based on an opinion entered by the Court on June 26, 1972.

This appeal is taken pursuant to 28 U.S.C., § 1253.

Respectfully submitted,

CRAWFORD C. MARTIN
Attorney General of Texas

ROBERT C. FLOWERS
Assistant Attorney General

GILBERT J. PENA
Assistant Attorney General

Attorneys for Defendants

P. O. Box 12548, Capitol Station
Austin, Texas 78711

CERTIFICATE OF SERVICE

I, Gilbert J. Pena, Assistant Attorney General of Texas, attorney for Defendants, do hereby certify that copies of the above and foregoing Notice of Appeal have been deposited in the United States Mail, postage prepaid, on this the 18th day of December, 1972, to the following addresses:

Messrs. Chris Dixie, Robert E. Hall
and George C. Dixie
505 Scanlan Building
Houston, Texas 77002

Mr. Gary Gurwitz
Atlas, Hall, Schwarz, Mills, Gurwitz,
and Bland
P. O. Box 1118
McAllen, Texas 78501

Mr. Luther E. Jones, Jr.
338 Laurel Drive
Corpus Christi, Texas 78404

Mr. Frank R. Nye, Jr.
105 W. Main Street
Rio Grande City, Texas 78582

GILBERT J. PENA
Assistant Attorney General

[Fol.G]

**OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543**

May 7, 1973

Gilbert J. Pena, Esq.
Assistant Attorney General
of Texas
P. O. Box 12548, Capitol Station
Austin, Texas 78711

RE: ALLEE v. MEDRANDO
No. 72-1125

Dear Sir:

The Court today took the following action in the above case:

"In this case probable jurisdiction is noted."

Enclosed are memorandums describing the time requirements and procedures under the Rules.

The additional docketing fee of \$50, Rule 52(a) is due and payable.

Very truly yours,

MICHAEL RODAK, JR., Clerk

By

(Mrs.) Helen K. Loughran
Assistant Clerk

AIR MAIL

Enclosures

cc: William Duncan, Esq.

John B. Abercrombie, Esq.

William D. Deakins, Jr., Esq.